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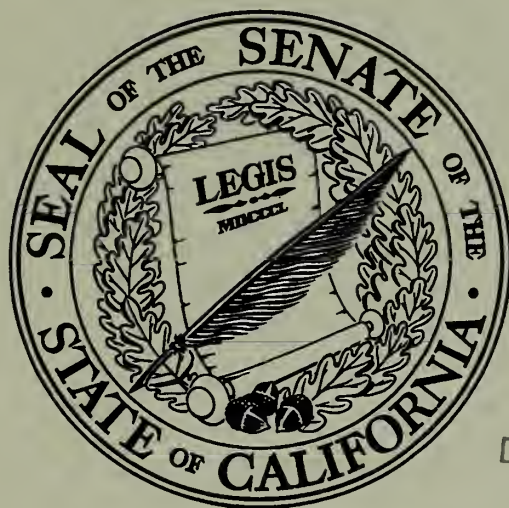








HEARING  
SENATE RULES COMMITTEE  
STATE OF CALIFORNIA



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1:37 P.M.



SENATE RULES COMMITTEE

STATE OF CALIFORNIA

--000--

HEARING

STATE CAPITOL

ROOM 3191

SACRAMENTO, CALIFORNIA

--000--

WEDNESDAY, JUNE 3, 2009

1:37 P.M.

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Reported By: INA C. LeBLANC  
Certified Shorthand Reporter  
CSR No. 6713

APPEARANCES

MEMBERS PRESENT

4 SENATOR DARRELL STEINBERG, Chair  
5 SENATOR GIL CEDILLO  
6 SENATOR SAMUEL AANESTAD  
7 SENATOR ROBERT DUTTON  
8 SENATOR JENNY OROPEZA

STAFF PRESENT

12 GREG SCHMIDT, Executive Officer  
13 JANE LEONARD BROWN, Committee Assistant  
14 NETTIE SABELHAUS, Appointments Consultant  
15 TERESA ACUNA, Assistant to SENATOR CEDILLO  
16 BILL BAILEY, Assistant to SENATOR AANESTAD  
17 CHRIS BURNS, Assistant to SENATOR DUTTON  
18 BRENDAN HUGHES, Assistant to SENATOR OROPEZA

ALSO PRESENT

22 JACK E. GARNER, Member, Board of Parole Hearings  
23 MICHAEL F. PRIZMICH, Member, Board of Parole Hearings

INDEX

Page

3	Proceedings .....	1
4	Governor's Appointees:	
5	JACK E. GARNER, Member, Board of Parole Hearings .....	2
6		
7	OPENING STATEMENT BY JACK E. GARNER .....	3
8	Questions by CHAIRMAN STEINBERG re:	
9	Legal standard for granting parole .....	6
10	Interpretation/view of "present danger but minimal" .....	7
11		
12	Questions by SENATOR OROPEZA re:	
13	Battered woman syndrome .....	9
14	Impact of reduction of rehabilitative services .....	12
15		
16		
17	<u>Witness in Support of JACK E. GARNER:</u>	
18	MARC NORTON, Defense Attorney .....	30
19		
20	<u>Witness in Opposition to JACK E. GARNER:</u>	
21	DAVID WARREN, Taxpayers for Improving Public Safety .....	14
22		
23		
24		
25		

iii

1	MICHAEL F. PRIZMICH, Member, Board of Parole Hearings .....	18
2		
3	OPENING STATEMENT BY MICHAEL F. PRIZMICH ....	18
4	Questions by CHAIRMAN STEINBERG re:	
5	"Present risk" versus "unreasonable risk" .....	19
6	Training .....	19
7		
8	Questions by SENATOR DUTTON re:	
9	Psychological evaluations/risk factors .....	21
10	Dog .....	23
11		
12	<u>Witness in Support of MICHAEL F. PRIZMICH:</u>	
13	MARC NORTON, Defense Attorney .....	30
14		
15	<u>Witnesses in Opposition to MICHAEL F. PRIZMICH:</u>	
16	PEGGY HERNANDEZ, Spouse of Life-Term Inmate .	23
17	DAVID WARREN, Taxpayers for Improving Public Safety .....	28
18		
19		
20		
21	Vote-Only Item re Confirmation of:	
22	ADAM B. HUBBARD, Member, California Arts Council .....	33
23	ROBERT T. DOYLE, Member, Commission of Peace Officer Standards and Training .....	33
24		
25	BONNIE M. DUMANIS, Member, Commission of Peace Officer Standards and Training .....	33

iv



1	Vote-Only Item re Confirmation of:	
2	JEFFREY A. LUNDGREN, Member, Commission of	
3	Peace Officer Standards and Training .....	33
4	LAURIE R. SMITH, Member, Commission of Peace	
5	Officer Standards and Training .....	33
6	--o0o--	
7	Proceedings Adjourned .....	34
8	Certificate of Reporter .....	35
9	APPENDIX (Written Responses of Appointees) ..	36

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1 All right. Moved by Senator Aanestad.  
2 Please call the roll on the reference of bills.  
3 MS. BROWN: Senator Cedillo.  
4 SENATOR CEDILLO: Aye.  
5 MS. BROWN: Cedillo aye.  
6 Dutton.  
7 SENATOR DUTTON: Aye.  
8 MS. BROWN: Dutton aye.  
9 Oropeza.  
10 SENATOR OROPEZA: Aye.  
11 MS. BROWN: Oropeza aye.  
12 Aanestad.  
13 SENATOR AANESTAD: Aye.  
14 MS. BROWN: Aanestad aye.  
15 Steinberg.  
16 CHAIRMAN STEINBERG: Aye.  
17 MS. BROWN: Steinberg aye.  
18 CHAIRMAN STEINBERG: All right. We move to  
19 file item two. There are two gubernatorial appointees  
20 who are required to appear today, Jack E. Garner and  
21 Michael F. Prizmich, as members of the Board of Parole  
22 Hearings.  
23 I'd ask -- Well, we're going to do them one at  
24 a time like we did last week.  
25 Mr. Garner could come up first. Appreciate it.

v

2

## PROCEEDINGS

1 CHAIRMAN STEINBERG: The Senate Committee on  
2 Rules will come to order.  
3 Please call the roll.  
4 MS. BROWN: Senator Cedillo.  
5 SENATOR CEDILLO: Here.  
6 MS. BROWN: Cedillo here.  
7 Dutton.  
8 SENATOR DUTTON: Here.  
9 MS. BROWN: Dutton here.  
10 Oropeza.  
11 Aanestad.  
12 Steinberg.  
13 CHAIRMAN STEINBERG: Here.  
14 MS. BROWN: Steinberg here.  
15 CHAIRMAN STEINBERG: Thank you. If we can -- I  
16 just want to make sure that the sergeants on the floor  
17 let Senator Oropeza and Senator Aanestad know -- There's  
18 Senator Aanestad. Okay. And Senator Oropeza is coming.  
19 SERGEANT LOPEZ: I informed them.  
20 CHAIRMAN STEINBERG: We have a quorum, and a  
21 full membership is now present.  
22 If we may begin with file item one, which is  
23 reference of bills. Are there any issues regarding  
24 reference of bills?  
25

1

1 MR. GARNER: Good afternoon.  
2 CHAIRMAN STEINBERG: Good afternoon, sir. How  
3 are you? Welcome.  
4 MR. GARNER: Thank you.  
5 CHAIRMAN STEINBERG: As part of our Rules  
6 Committee tradition, we always want to give the nominee  
7 an opportunity to introduce his or her family, or any  
8 special guest in the audience. Please do so.  
9 MR. GARNER: Very good. Thank you for the  
10 opportunity. I would like to introduce my wife,  
11 Diana Garner. She's in the audience. She was here last  
12 time. Thank you.  
13 CHAIRMAN STEINBERG: Welcome to you. Good to  
14 see you. All right.  
15 Mr. Garner, you're up for this important  
16 position here. Would you like to begin with an opening  
17 statement?  
18 MR. GARNER: Yes, sir. I would.  
19 CHAIRMAN STEINBERG: Good.  
20 MR. GARNER: Ready to proceed?  
21 CHAIRMAN STEINBERG: Yes. Go, go.  
22 MR. GARNER: First of all, I'd like to say good  
23 afternoon to everyone and confirm that I am Jack Garner.  
24 I'm here as a governor's appointee to the Parole Board.  
25 Grateful for the opportunity to appear before you today,

3

1 Mr. Chairman, Members of the Senate Rules Committee.  
2 A little background. Essentially, my entire  
3 life has been in the area of public service from the  
4 time I was 21 years of age until the age that I am  
5 today, which very shortly will be Medicare-eligible age  
6 in about 23 days.

7 During my term on the board, I have been  
8 assigned over 2,000 cases, have handled the vast  
9 majority of the cases. Each case, of course, is  
10 challenging, interesting. There's never a dull moment  
11 when you are working on the board.

12 It does afford you, occasionally, opportunities  
13 to develop -- I won't call it a personal relationship,  
14 but to at least acknowledge the human side of what we  
15 do, and that is to reach out and help somebody that you  
16 see that's in need of help.

17 At a particular occasion with a rather sad case  
18 of an individual that obviously had an extreme hearing  
19 difficulty to the point where he couldn't even  
20 understand the proceedings. A quick call to the on-site  
21 Americans with Disabilities Act coordinator for the  
22 institution resulted in a positive outcome. They  
23 acknowledged that there had been an omission and an  
24 error in some of the paperwork that's done to  
25 acknowledge these sorts of issues, and that the

4

1 individual is going to be scheduled to get a hearing  
2 aid, which certainly not only would facilitate his  
3 participation in the hearing but would make his  
4 day-to-day life while in custody certainly a lot more  
5 bearable, being able to hear.

6 During my time as a commissioner, I feel that  
7 I've done my best to establish a reputation for being  
8 fair and impartial. It's oftentimes a matter in the eye  
9 of the beholder, but it's certainly been my intent to do  
10 that. It's also been my intent, wherever possible, to  
11 make the hearing as relaxed as I can. I certainly  
12 recognize it's a very stressful hearing for the people  
13 that are coming before us, and doing what we can to  
14 relieve some of that tension, often including just  
15 giving them a break if they appear to be in such a  
16 manner that they're not able to present themselves.  
17 Just a moment to step outside, get a drink of water has  
18 oftentimes been very beneficial.

19 So, again, I do appreciate the opportunity to  
20 serve as a commissioner. I'm here today to answer any  
21 questions that you may have and, again, look forward to  
22 participating in today's proceedings.

23 CHAIRMAN STEINBERG: Thank you, Mr. Garner. We  
24 do have some questions, and I will begin.

25 Last week we heard a number of nominees for the

5

1 same position, and we asked a question that I want to  
2 ask you about, a very important question, as to what you  
3 believe the legal standard to be for the granting of  
4 parole.

5 In reviewing some of the transcripts of the  
6 cases you have presided over, the standard phrase you  
7 use is whether or not the inmate poses, quote, "a  
8 present risk of danger." And yet Title 15 of the Code  
9 of Regulations says that you "... deny parole if, in the  
10 judgment of the panel, the prisoner will pose an  
11 unreasonable risk of danger to society if released."

12 How do you reconcile those two?

13 MR. GARNER: Well, up until the passage of  
14 Proposition 9, the second example you gave was the  
15 standard, the unreasonable risk of danger.

16 The passage of Proposition 9 did slightly  
17 modify it since as a result of the *Lawrence* and *Shaputis*  
18 case, we're now charged with also making an assessment  
19 with respect to their current risk of danger if  
20 released, and that risk, of course, would be to the  
21 community and to the society.

22 So it's a process of evolution that's actually  
23 occurred since I've been on the board.

24 CHAIRMAN STEINBERG: I'd like to understand,  
25 because these are legal terms in a way, but how one

6

1 interprets them is important, because an individual  
2 could be a present risk of danger but be a minimal risk  
3 of danger. If -- how do you -- How would you view that  
4 fact scenario? Present danger but minimal.

5 MR. GARNER: We, of course, take into  
6 consideration the totality of the information that's  
7 before us. The one example, of course, is we do have  
8 the psychological exams that give us a clinician's  
9 observation. And, typically, for the people that are  
10 approaching readiness for suitability is the  
11 determination from the clinician that they represent  
12 either a low or a very low risk of danger to society.  
13 That plays into all the other considerations that we  
14 entertain at the time we're making our decision, their  
15 institutional programming, their discipline history.  
16 These are all factors that play exactly into the  
17 question you're asking.

18 CHAIRMAN STEINBERG: Maybe I can ask it a  
19 little different way.

20 MR. GARNER: Okay.

21 CHAIRMAN STEINBERG: Have you seen fact  
22 situations where someone was, in fact, a present risk of  
23 danger but not an unreasonable risk of danger?

24 MR. GARNER: I don't believe I've seen that set  
25 of circumstances.

7



1 CHAIRMAN STEINBERG: Can you imagine that set  
2 of circumstances? I mean, can you conceive of a  
3 situation where someone would be a present risk? But,  
4 again, I'm not qualifying it by what degree of risk. Do  
5 you understand what I'm trying to get at?  
6 MR. GARNER: I think I see where you're going.  
7 CHAIRMAN STEINBERG: It's not semantics. It's  
8 just -- You could argue that everyone is at some risk of  
9 being dangerous, especially someone who's been sentenced  
10 to life in prison. Let's stipulate everybody is a  
11 present risk of danger. So then what? Is it an  
12 unreasonable risk of danger, or is it any risk of  
13 danger?  
14 MR. GARNER: Taking the illustration, we could  
15 have an individual that you described that does have a  
16 present risk of danger that's been determined to be low.  
17 Under those circumstances, I would not find that to be  
18 an unreasonable risk, because we pretty much concluded  
19 everyone has the potential to be a risk.  
20 CHAIRMAN STEINBERG: And you would grant that  
21 person parole given --  
22 MR. GARNER: All the other considerations.  
23 CHAIRMAN STEINBERG: -- all the other  
24 considerations.  
25 MR. GARNER: Yes.

8

1 CHAIRMAN STEINBERG: Okay. Well, that's pretty  
2 clear.  
3 MR. GARNER: Thank you.  
4 CHAIRMAN STEINBERG: Okay. Questions from  
5 other members. Senator Oropeza.  
6 SENATOR OROPEZA: Hi. Thank you for being with  
7 us today. I'd like to talk to you about two matters.  
8 One has to do with a very particular condition that the  
9 individuals may come to you with, and that's battered  
10 woman syndrome.  
11 How -- How do you factor into your  
12 considerations, given that within Title 15 of the code  
13 it's clearly necessary for you to do so -- how do you  
14 deal with the issue of battered woman syndrome? How do  
15 you determine; how do you factor that into your  
16 decisions; what role does it play in the overall  
17 outcomes from the hearings?  
18 MR. GARNER: Very good. I think I understand.  
19 The present situation, of course, is that we  
20 now define that as intimate partner battery, although I  
21 have yet to have a male inmate that has made that  
22 assertion.  
23 Typically, this is a finding that is present  
24 when you are in one of -- for my case, in one of the two  
25 women's prisons.

9

1 We, of course, receive training in this. We've  
2 also received training materials. We've received sample  
3 questions we can ask going to the different points,  
4 going to the elements in the different types of abuse  
5 the person may have sustained over the history of the  
6 relationship with the batterer.  
7 So by probing on those particular questions, we  
8 also have the opportunity -- Oftentimes, there's been a  
9 request for a very detailed investigation that will go  
10 into very great lengths to determine all of the factors  
11 that went into the particular claim that's been made as  
12 to whether it's verified, partially verified, or not.  
13 Those are the particular findings.  
14 SENATOR OROPEZA: And how do you factor  
15 those -- that information into your decisions? How does  
16 that affect the outcomes?  
17 MR. GARNER: I guess an easy answer for me  
18 would be that I would give it appropriate weight. If it  
19 was very, let's say, overwhelming and very conclusive,  
20 then that would be a significant factor for me to  
21 consider. If it was one where it was minimally  
22 sustained and may not have been completely addressed,  
23 then I would have to either reach a greater level of  
24 satisfaction by asking more questions, but at some point  
25 I would just have to take the information that is before

10

1 me and make the best decision possible.  
2 SENATOR OROPEZA: How do you become aware --  
3 How do you become aware, as a hearing officer, that a  
4 given inmate suffers from this syndrome or has  
5 potentially suffered from this?  
6 MR. GARNER: Number of sources would be that if  
7 there's been a previous request for investigation, that  
8 of course would come out very quickly. It's a factor  
9 and consideration that the clinician also addresses at  
10 the time he or she completes the psychological  
11 evaluation.  
12 And, again, there is the opportunity, if  
13 there's the slightest doubt, to go to the battery of  
14 questions that we've been provided that were a  
15 by-product of the training sessions that --  
16 SENATOR OROPEZA: And those were developed by  
17 the psychological folks?  
18 MR. GARNER: They are a combination of the  
19 psychological, and also we have a number of experts that  
20 assist the board.  
21 SENATOR OROPEZA: Specifically on battered  
22 women?  
23 MR. GARNER: On this issue, I recall a  
24 Dr. Balkar, I believe, being one of the experts that has  
25 assisted the board in this particular training and also

11



1 the development of materials.

2 SENATOR OROPEZA: In the course of your

3 experience, have you ever found that battered woman

4 syndrome was the tipping of the balance in terms of

5 actually giving someone parole?

6 MR. GARNER: No.

7 SENATOR OROPEZA: No. Okay.

8 And then the second line of questioning relates

9 to our fiscal situation and what we're looking at not

10 only this year, but next year. As you're probably

11 aware, this year's cuts are about 790 million this year,

12 and 915 million specifically from rehabilitative

13 services within CDCR. And so -- And those

14 rehabilitative services are -- would include things like

15 substance abuse, education programs, vocational

16 training, the kinds of things that help prepare people

17 for parole.

18 So I'm not asking you for your position on

19 those, but what I would like to ask you is how you think

20 those reductions will impact your work in what you see

21 and -- well, let me just leave it there.

22 MR. GARNER: I think the impact that it's going

23 to have on all of the commissioners, of course, is in

24 the area of dealing with the readiness of the people

25 that are coming before us, because the programming is

12

1 such an essential component. That's essentially what we

2 hammer from the time they have their -- what's called a

3 document hearing, which is a prelude to the actual full

4 hearing with the commissioner. The issue of programming

5 is hammered exclusively, the programming around getting

6 vocational skills, programming around self-help, albeit

7 for substance-abuse issues, anger-management issues, but

8 all the things that we do very positively when someone

9 comes before us.

10 We actually had a preview of this with respect

11 to a lot of the programming that had to be curtailed

12 during the budget impasse. There essentially was no

13 money, and the programs were shut down. And our best

14 source for program information is, nine times out of

15 ten, the inmates when they come before us who tell us

16 that the programs have been curtailed.

17 So anything that occurs as a result of economic

18 circumstances or otherwise I feel is going to have a

19 direct impact on not only the readiness for parole, but

20 I also think that potentially there are a number of just

21 institutional issues that are going to be important for

22 the various institutions to consider. And a lot of that

23 is some of the frustration, because these programs also

24 provide a very viable outlet for sometimes the closest

25 thing to socialization that the inmates will have the

13

1 opportunity to be involved in.

2 I know -- I do it and I know other

3 commissioners have also done it. We certainly encourage

4 people during these -- we call them the times when there

5 are institutional issues that preclude the type of

6 programming that we like -- not to allow this to impact

7 them by doing alternatives, such as self-study, that

8 they can document.

9 We're finding a lot of the inmates are

10 developing their own study groups. They're developing

11 their own groups on the yard to work the steps with each

12 other, because the essence of the programming isn't as

13 much that they bring the certificates in. It's when we

14 question them, that they're able to articulate any

15 benefit and value.

16 For example, someone that says they've been

17 going to substance abuse programming such as AA or NA

18 for 20 years consecutively, and we ask them a step and

19 they can't tell us, it does call into questioning

20 whether they're going there for cookies and milk or

21 actually to get something out of the program.

22 SENATOR OROPEZA: Well, thank you very much. I

23 appreciate your answers.

24 CHAIRMAN STEINBERG: Other Members?

25 Are there members of the public who want to

14

1 come up to testify either in support or opposition of

2 Mr. Garner? Come on up.

3 MR. WARREN: Good afternoon. My name is David

4 Warren. I'm appearing on behalf of Taxpayers for

5 Improving Public Safety, and we're appearing in

6 opposition to the nomination. We've submitted a letter

7 which details, essentially, the contents of our

8 opposition.

9 Like you, I've read a number of transcripts,

10 and I feel that member -- the nominee has a

11 predisposition to attempt to find *Shaputis* reasons to

12 deny parole rather than --

13 CHAIRMAN STEINBERG: Explain that, please,

14 "*Shaputis*," for the record.

15 MR. WARREN: There are two parallel Supreme

16 Court decisions. One was *Davis Lawrence*, which sets the

17 standard for granting parole, and *Shaputis*, which

18 provided guidelines to deny parole. And specifically,

19 in *Shaputis*, the court found that the person had not

20 fully reflected and examined and made amends for their

21 criminal conduct; whereas in *Davis Lawrence*, there was a

22 long track record of demonstration of repenting the

23 action and having rehabilitated themselves. The key in

24 the *Shaputis* case was the person was not adequately

25 admitting his criminal conduct, and that appeared to be

15

1 the fulcrum.

2 In reviewing the transcripts, it appears the  
3 questions are directed towards supporting a *Shaputis*  
4 denial.

5 The -- Also, I think that the Chair asked a  
6 very telling question, and that is: When do we find a  
7 person should be granted parole? And the response  
8 was: When they're no longer a danger to public safety.  
9 And yet the nominee voted to deny the release of a woman  
10 who had terminal cancer, brain tumor, was hospitalized,  
11 had a leg amputated and could not eat or take care of  
12 herself by herself. It's certainly telling that that is  
13 not the standard. It was more concern about her prior  
14 crime.

15 Thank you very much.

16 CHAIRMAN STEINBERG: Good. You know, we loath  
17 to get into debate back and forth about individual  
18 cases, but if you want to respond, Mr. Garner, as to  
19 this specific case cited by Mr. Warren, you're welcome  
20 to.

21 MR. GARNER: I'm going to assume that he's  
22 talking about the Elkins case, and this was a case that  
23 did come before the entire board. We had an ample body  
24 of testimony. We also had a number of reports that were  
25 prepared for us by the various institutions and also by

16

1 CDCR staff.

2 And I did vote against the release. I was one  
3 of 12. I believe it was a unanimous vote, and I voted  
4 against it.

5 CHAIRMAN STEINBERG: Okay. No other witnesses.

6 Couple of comments. I find your answers today  
7 to be very cogent. You're the only nominee thus far on  
8 these issues that actually, to my satisfaction,  
9 reconciled Title 15 with the Supreme Court cases in a  
10 way that makes sense to me.

11 I also appreciated your answers to Senator  
12 Oropeza's questions, and your view on programming, and  
13 the difference between programming in name and  
14 programming in actual action. And so it would be my  
15 inclination to support your nomination.

16 We will, however, just as we did last week, put  
17 over the nomination, because what we do want is some  
18 understanding and some clarity with the board itself,  
19 the entire board itself, as to the appropriate legal  
20 standard so that everyone is on the same page going  
21 forward, and there isn't this ambiguity.

22 So your nomination will expire, I believe, on  
23 July the 1st, and we will bring it back up before that  
24 and look forward to supporting your nomination.

25 MR. GARNER: Very good. I appreciate your

17

1 comments. Thank you.

2 CHAIRMAN STEINBERG: Thank you very much.  
3 Mr. Prizmich, welcome to the hot seat.

4 MR. PRIZMICH: There you go.

5 CHAIRMAN STEINBERG: There you go.

6 Would you like to introduce any member of your  
7 family or special guest here with you today?

8 MR. PRIZMICH: I'm Mike Prizmich, Commissioner.  
9 I'm the only one here.

10 CHAIRMAN STEINBERG: Okay. Well, very, very  
11 good. Would you like to make an opening statement, sir?

12 MR. PRIZMICH: Briefly, yeah. I started my law  
13 enforcement career in 1971 with the Oakland Police  
14 Department, served there for about six years; moved to  
15 Amador County, held the position of deputy sheriff,  
16 lieutenant, chief deputy, undersheriff, and, finally, a  
17 three-term sheriff for the county.

18 As a sheriff for the county, I was involved in  
19 a number of jail and public issues that dealt with both  
20 victims and inmates. Started a number of programs.  
21 One, particularly, was a program in the jail that was --  
22 enhanced prisoners' ability to improve themselves, and  
23 it incorporated their families. And that was read into  
24 the record by Janet Reno, the then Attorney General, and  
25 was mentioned on the Senate -- the Congressional record

18

1 in Washington, D.C.

2 I served on the California State Sheriffs as a  
3 director there and headed up a couple of committees that  
4 I participated on there; became a commissioner in --  
5 after I retired in 19 -- 2007 and have served since  
6 approximately -- well over a thousand hearings that I've  
7 participated in.

8 CHAIRMAN STEINBERG: Same question that we  
9 asked Mr. Garner regarding how you reconcile, if at all,  
10 Title 15 with the Supreme Court cases, "present risk"  
11 versus "unreasonable risk"?

12 MR. PRIZMICH: I think Commissioner Garner hit  
13 the nail on the head, as you said, that no one is  
14 without risk, and we need to weigh what the risk is at  
15 the time we see the individual and make an assessment.  
16 And the assessment incorporates a number of factors:  
17 what kind of self-help programming they've done,  
18 psychological evaluations, programming that they've  
19 done, work product that they've done, what their parole  
20 plans look like. There are a number of factors that you  
21 look at and come up with an assessment.

22 CHAIRMAN STEINBERG: We noticed in reviewing  
23 the transcripts of your hearings that you were actually  
24 one of a few officers who actually used the language  
25 "posing an unreasonable risk" as your standard. Were

19



1 you trained differently than others?

2 MR. PRIZMICH: Maybe I was asleep during that.

3 CHAIRMAN STEINBERG: As opposed to -- Again,

4 I -- we don't want to --

5 The language is important. We're not, you

6 know, trying to split hairs in any way. We're trying to

7 understand what the standard is.

8 MR. PRIZMICH: I understand.

9 CHAIRMAN STEINBERG: You used the Title 15

10 standard specifically, and few others seemed to do that.

11 So what special training do you get?

12 MR. PRIZMICH: Why me?

13 CHAIRMAN STEINBERG: Yes, sir.

14 MR. PRIZMICH: I've been a commissioner for a

15 while. A lot of our commissioners that are on the board

16 now are relatively new, at least they're newer than I

17 am. I was comfortable with the hearings and comfortable

18 with the briefings that we got on the various case laws

19 and render my decisions based upon what I believe is

20 fair on that day and incorporate the case law.

21 I was not aware I was the only one using that

22 language, but that's how I do it. That's my style, I

23 guess, if you will.

24 CHAIRMAN STEINBERG: Okay. Thank you.

25 Questions from Members.

20

1 SENATOR DUTTON: Yes. Good afternoon.

2 MR. PRIZMICH: Good afternoon.

3 SENATOR DUTTON: With regards to some of the

4 risk analysis, there's a risk section within the --

5 there's a risk factor section in the analysis that you

6 get, I believe.

7 MR. PRIZMICH: In the psychological evaluation?

8 Is that what you're talking about?

9 SENATOR DUTTON: Yes, in the psychological

10 evaluation. How useful do you find that, and can you

11 kind of describe it a little bit to me? What's in it?

12 MR. PRIZMICH: I can only speak for myself. I

13 look at each individual as an individual. And not all

14 the psychological evaluations, in my view, are right on,

15 and you need to make your own independent assessment of

16 that.

17 Generally, you get a guide, and you compare

18 that against other factors such as the disciplinary

19 record, does it seem to be reflected in this risk

20 assessment; who the individual is looking eye to eye

21 across the table at you. You're dialoging with them,

22 and you have a pretty darn good idea, or at least most

23 of us, I believe, do, in talking one-on-one to make an

24 assessment, Is this psychological evaluation accurate?

25 And if it isn't, you need to look into it closer.

21

1 I have -- I've given dates to a low-moderate,

2 which is generally higher than the commission is used to

3 giving dates to, but I went into the issue that made him

4 a low-moderate, and I determined that it was

5 inappropriately looked at by the psychological

6 evaluator, and I gave a date. And I articulated that in

7 my decision.

8 SENATOR DUTTON: When you find that to be the

9 case, when you find something lacking in the

10 psychoanalysis, especially in the risk-factor section,

11 do you then -- is there any kind of procedure for you to

12 report that difficulty with that particular evaluator?

13 MR. PRIZMICH: Well, you know, that's that

14 evaluator's opinion, and, certainly, they have greater

15 expertise in those fields.

16 I am charged with looking at a number of

17 different factors that incorporates that as one of them,

18 and I make a decision based on a number of factors. And

19 we do find, just being the large bureaucracy that we

20 are, there are errors in psychological evaluations, and

21 you will -- you should -- I do request another

22 psychological evaluation. I send that through the

23 proper channels.

24 SENATOR DUTTON: Do you usually do that before

25 or after you make your final -- I guess it varies, I

22

1 guess.

2 MR. PRIZMICH: You make it at some point during

3 the decision.

4 SENATOR DUTTON: What kind of dog do you bring

5 to the hearings?

6 MR. PRIZMICH: I wish I could. I have a Border

7 Collie that I invite into --

8 SENATOR DUTTON: They told me that you travel

9 with a dog.

10 MR. PRIZMICH: Actually, I wish I could, but I

11 don't.

12 CHAIRMAN STEINBERG: What's your view on

13 spaying and neutering?

14 (Laughter.)

15 MR. PRIZMICH: You never fool with a guy's dog.

16 My dog is a rescue dog, and his name is Bandit.

17 So when I was the sheriff, it was the Sheriff and

18 Bandit. He came to work with me. And he is a --

19 SENATOR OROPEZA: Your choice.

20 MR. PRIZMICH: Pardon?

21 SENATOR OROPEZA: Your choice to do that.

22 MR. PRIZMICH: He came to me that way, but I

23 would have done that. Like I said, it was a rescue.

24 How did we get off on this?

25 CHAIRMAN STEINBERG: Sorry. It was a big bill

23



1 on the floor yesterday in the Senate.  
2 Witnesses in support or opposition.  
3 MS. HERNANDEZ: My name is Peggy Hernandez.  
4 Members of the Committee, thank you for your  
5 attention this afternoon. I was present last week, and  
6 I expressed my opposition to appointment of Board of  
7 Parole Hearing commissioners whose background,  
8 education, and experience is largely from the law  
9 enforcement community.

10 Today I am here specifically to oppose the  
11 appointment of Michael F. Prizmich. There are several  
12 areas of grave concern that I have regarding  
13 Mr. Prizmich's appointment: Number one, his lack of  
14 familiarity with the vocational and educational programs  
15 offered in the correctional facility; number two, his  
16 inability to evaluate suitable parole plans; and three,  
17 his limited knowledge and understanding of psychological  
18 evaluations and counseling reports. All of these  
19 elements are listed on the CDCR Web site as components  
20 of the suitability criteria for the lifer parole  
21 process.

22 By way of background, both Folsom State Prison  
23 and Avenal State Prison operate cooperative programs  
24 initiated by the community college system for the  
25 purpose of converting instructional material into an

1 alternate format for use by students with disabilities.  
2 Inmates assigned to these programs must pass a  
3 rigorous criteria for acceptance, including a high level  
4 of academic excellence, commendable behavior, and  
5 institutional programming, recommendation by  
6 correctional staff, and a criminal history that does not  
7 include sex-related offenses.

8 From 2001 to 2006, four inmates who had  
9 participated in these programs were placed at community  
10 colleges to produce alternate media. One of these  
11 inmates was previously a life-term inmate. Another  
12 life-term inmate has been offered a position at CSU  
13 Long Beach.

14 During recent hearings, presiding commissioner,  
15 Mr. Prizmich, demonstrated his lack of understanding  
16 regarding these programs. He did not understand the  
17 purpose or mission of these programs or the reasons  
18 behind their creation. He then concluded that a job  
19 offer from Cosumnes River College offered to the inmate  
20 was deceptive. He remarked he did not even know that  
21 there was braille at Cosumnes.

22 On many levels, his lack of familiarity with  
23 the vocational and educational programs offered in the  
24 correctional facility and his inability to evaluate  
25 simple parole plans has adverse outcomes to the inmates

1 seeking parole. Additionally, this begs the question  
2 whether Mr. Prizmich even understands the Americans with  
3 Disabilities Act rights he reviews with the inmate and  
4 counsel at the beginning of each hearing.

5 During the same hearing, the transcript reveals  
6 that Mr. Prizmich cherry-picked through six different  
7 psychological reports over a 20-year span to extract  
8 excerpts to support his conclusion that an inmate was  
9 not suitable for release. Mr. Prizmich's personal  
10 method of interpreting psychological assessments is not  
11 the manner in which these comprehensive diagnostic  
12 evaluations are intended to be used.

13 In clinical practice, individuals over a period  
14 of time may not meet the full criteria for a disorder.  
15 In fact, current evaluations reflect a cumulative  
16 history over a period of time and include a more  
17 comprehensive observation and understanding of an  
18 individual's behavior.

19 Mr. Prizmich has delayed Board of Parole  
20 hearings for updated psychological examinations and then  
21 chooses to reference earlier examinations when they  
22 fulfill his conclusions. He draws these conclusions  
23 citing an individual's lack of insight, even though  
24 there is no diagnostic or anecdotal information to  
25 substantiate his belief.

1 CHAIRMAN STEINBERG: Have you witnessed any of  
2 his hearings?

3 MS. HERNANDEZ: I have read the transcripts of  
4 his hearings. And, specifically, what I personally  
5 found offensive is, I was the individual who created the  
6 community colleges program at the prisons. I was the  
7 individual, pursuant to AB 422 (Steinberg), in 2000 that  
8 initiated these programs --

9 CHAIRMAN STEINBERG: Great bill. Great bill.

10 MS. HERNANDEZ: It was awesome.

11 In fact, the California Association on Post-  
12 Secondary Education and Disability gave the Lanterman  
13 Award to then Assemblyman Steinberg for this legislation  
14 which prompted a number of changes within the community  
15 college system.

16 The donations from the community college system  
17 to Department of Corrections is in excess of \$300,000 in  
18 initiating these programs, and the only contribution  
19 that Corrections was asked to contribute were the  
20 inmates. In exchange for this partnership, Scott  
21 Hamilton and myself negotiated with the Corrections that  
22 we would assist in job-placement activities following  
23 the inmate's release.

24 CHAIRMAN STEINBERG: So your complaint, just so  
25 I understand it, is that this commissioner was not aware

1 of this resource. So why don't we --  
2 MS. HERNANDEZ: He wasn't aware of --  
3 The requirements are that they are supposed to  
4 be knowledgeable of educational programming and  
5 vocational programs at the institutions, and his lack of  
6 familiarity he translated into his own impression that  
7 it was deceptive when the inmate was offered a letter on  
8 Cosumnes River College letterhead that he was going to  
9 get employment in the capacity of braille.  
10 CHAIRMAN STEINBERG: Very good. Thank you.  
11 We're going to ask you to respond to that.  
12 Mr. Warren, why don't you go first.  
13 MR. WARREN: My name is David Warren. I'm  
14 appearing on behalf of Taxpayers for Improving Public  
15 Safety. In addition to the reasons that I stated  
16 previously, I'd like to add one more.  
17 In the case of this nominee, I would refer to  
18 the situation of Anna X. Anna X. murdered her  
19 boyfriend. She got a 15-to-life sentence. In her 17th  
20 year, the nominee was -- reviewed her parole nomination.  
21 This individual had completed every program at the top  
22 of her class available at the California Institution for  
23 Women. She had graduated summa cum laude from the  
24 community college program that was available at the  
25 prison. She was a leader in the prison in reform

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1 activities and was given a denial because she had not  
2 demonstrated the fact that she had rehabilitated.  
3 This was an individual who was in prison  
4 because her boyfriend had habituated her to  
5 methamphetamine, and no matter how hard she tried, she  
6 could not get away and finally, ultimately, killed him  
7 in a fight.  
8 This is a classic example of why this  
9 commissioner should be denied confirmation. Thank you.  
10 CHAIRMAN STEINBERG: Thank you, both, very  
11 much.  
12 Commissioner, do you want to respond to -- I  
13 mean, I think the general allegations, if you will, from  
14 the opposition is that you're not aware of all of the  
15 statutorily required and/or available programs that, had  
16 you known them, you might, in fact, be more comfortable  
17 granting parole, knowing that the parolees have an  
18 option on the outside. How do you respond?  
19 MR. PRIZMICH: Well, I mean, we do get  
20 information from the institutions on what they are  
21 provided in terms of self-help programming and  
22 vocational programming.  
23 I don't know the specifics on the situation  
24 that the lady was speaking of. I think it was probably  
25 several years ago, if I'm not mistaken. I do remember

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1 somebody with a Cosumnes River College offer of some  
2 kind, but I don't remember the details of that.  
3 I certainly do ask questions about any of the  
4 job offers they have, and if there are circumstances  
5 that seem unusual to me, I'll probe a little bit deeper  
6 to make sure that their offers are valid. But it's hard  
7 for me to articulate the specifics on that one.  
8 I certainly do know -- Avenal is an institution  
9 I go to quite often, and I'm aware of the programs that  
10 are there.  
11 CHAIRMAN STEINBERG: Okay. Any other  
12 witnesses? Yes, sir. Come on up.  
13 MR. NORTON: Good afternoon, Senator Steinberg,  
14 Members. My name is Marc Norton I'm a defense attorney.  
15 I have a private practice here in Sacramento, and I've  
16 been doing board hearings for about three years. I've  
17 done between -- approximately 300, I guess.  
18 I've appeared before Commissioner Prizmich and  
19 Commissioner Garner, and I have nothing but praise for  
20 both of them. I think they're both fine individuals who  
21 take their jobs seriously. And while I know that  
22 there's been some concern expressed about they don't  
23 grant parole normally, again, personally, when I walk  
24 into the hearing room and I see either of these  
25 gentlemen there, I don't get a pit in my stomach. So to

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1 me, that means something.  
2 CHAIRMAN STEINBERG: The pit-in-the-stomach  
3 test.  
4 MR. NORTON: The old pit-in-the-stomach test,  
5 yes, sir.  
6 Now having said that, I do know that there's  
7 been great concern expressed by the defense bar, and  
8 myself is included in that, that the panel is comprised  
9 solely of law enforcement background, and I think that's  
10 a real concern. It's a concern to me not so much,  
11 again, individually, when I appear before Mr. Prizmich  
12 or Mr. Garner. That's not the issue. For me, a lot of  
13 times the governor will refer a case to the full panel,  
14 called the en banc panel, in Sacramento, and typically  
15 victims and victims' next-to-kin show up at those  
16 hearings, and the panel --  
17 My job as an advocate is to get a majority of  
18 votes to affirm the date that was already given. If I  
19 don't get that majority, then it's scheduled for what's  
20 called a rescission hearing. That happened recently,  
21 April 2nd this year, and I felt it was unwarranted so  
22 much so that the date was rescinded. I wrote a letter  
23 to BPH legal, and they have reversed the decision, so  
24 now my guy is going to parole.  
25 CHAIRMAN STEINBERG: Does this relate to the

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1 nominee here?  
2 MR. NORTON: Only in regards to the totality of  
3 composition of the panel, Senator.  
4 CHAIRMAN STEINBERG: Okay.  
5 MR. NORTON: In that, again, if the panel is  
6 comfortable with all law enforcement being on the panel,  
7 then I would fully support these two individuals.  
8 CHAIRMAN STEINBERG: At least some of us agree  
9 with your general statement here. We share the same  
10 concern.  
11 MR. NORTON: Again, that is not -- I understand  
12 there's three other nominees that are on hold right now.  
13 If you're going to pick two of the five, then  
14 commissioners -- in my view, Commissioners Garner and  
15 Prizmich would be those two.  
16 CHAIRMAN STEINBERG: Thank you very much.  
17 Appreciate your testimony.  
18 MR. NORTON: Thank you, sir.  
19 CHAIRMAN STEINBERG: All right. I would note  
20 for the record, just because I think it's important,  
21 that Mr. Garner, if you look January 8th -- January '08  
22 to April '09 conducted 762 hearings, made 68 grants,  
23 432 denials, 55 stipulations, and 205 postponements.  
24 Mr. Prizmich, during the same period of time,  
25 781 hearings, 45 grants, 528 denials, 107 stipulations,

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1 and 145 postponements, just so that's -- the numbers are  
2 clear and on the record.

3 Mr. Prizmich, I think you're qualified, and I  
4 think you're fair. And this is -- The overriding issue  
5 that Mr. Warren and others raise consistently is, I  
6 think, a correct issue as well, but it's our job to look  
7 at the nominee as he or she comes before us. And in  
8 your case, again, I lean towards confirmation, but like  
9 with Mr. Garner and the nominees last week, we're going  
10 to put this over so that we can get from the board an  
11 understanding on the appropriate and consistent legal  
12 standard. All right?

13 MR. PRIZMICH: Thank you, sir. Appreciate your  
14 comments.

15 CHAIRMAN STEINBERG: Thank you very much.  
16 Appreciate it.

17 Okay. Let's move through the rest of the  
18 agenda quickly, if we can.

19 We've got the governor's appointees subject to  
20 confirmation but not required to appear. That's item  
21 three. Is there any --

22 Moved by Senator Aanestad, 3C through G.  
23 Please call the roll.

24 MS. BROWN: Senator Cedillo.

25 SENATOR CEDILLO: Aye.

33

1 MS. BROWN: Cedillo aye.  
2 Dutton.  
3 SENATOR DUTTON: Aye.  
4 MS. BROWN: Dutton aye.  
5 Oropeza.  
6 SENATOR OROPEZA: Aye.  
7 MS. BROWN: Oropeza aye.  
8 Aanestad.  
9 SENATOR AANESTAD: Aye.  
10 MS. BROWN: Aanestad aye.  
11 Steinberg.  
12 CHAIRMAN STEINBERG: Aye.  
13 MS. BROWN: Steinberg aye.  
14 (Thereupon, the Senate Rules Committee hearing  
15 adjourned at 2:18 p.m.)

18 --o0o--

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1 --o0o--

2 I, INA C. LeBLANC, a Certified Shorthand  
3 Reporter of the State of California, do hereby certify  
4 that I am a disinterested person herein; that the  
5 foregoing transcript of the Senate Rules Committee  
6 hearing was reported verbatim in shorthand by me,  
7 INA C. LeBLANC, a Certified Shorthand Reporter of the  
8 State of California, and thereafter transcribed into  
9 typewriting.

10 I further certify that I am not of counsel or  
11 attorney for any of the parties to said hearing, nor in  
12 any way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand  
14 this 8<sup>th</sup> day of June, 2009.

15  
16  
17 

18 INA C. LeBLANC  
19 CSR No. 6713

20 --o0o--

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APPENDIX

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Senate Confirmation  
Jack E. Garner, Commissioner  
Board of Parole Hearings  
Responses to Senate Rules Committee Questions  
May 11, 2009

Jack Garner  
Responses  
BPH

**Statement of Goals**

1. ***What are your goals and objectives in your new term as commissioner of BPH? How will you measure your success in this term? How do you gauge your performance in your first term?***

My goals and objectives for my second term are consistent with my first term. Specifically, I want to conduct fair and impartial hearings to the best of my ability.

My assessment of performance during the first term is favorable. I strived to learn as much as possible regarding my duties and responsibilities. Board of Parole Hearing (BPH) training, self-education, and monitoring trends and direction from the courts were the methods I used to gauge my performance.

2. ***You have served as a BPH member since 2005. Do you believe the lifer hearing process serves the public, the inmate, and the victims equally well? If you were able, what improvements would you make?***

I believe the current lifer hearing process is designed to meet a variety of needs that include the public, the inmate, the victims and the victim's next of kin. The assessment of the final outcome is in the eye of the beholder. The hearing decision is the point where different expectations may cause disagreement. For example, the inmate may feel the hearing was fair, but disagrees with the decision. Likewise, the victim or victim's next of kin may have the same feeling about the hearing, but disagrees with the decision. This is especially true if the decision was a grant of parole.

The public's concern is more difficult to assess because, for the most part, they are not actively involved in the hearing process. Clearly, the role of the district attorney is to represent the public at the hearing. However, the scope of this representation is limited to the hearing that is being conducted.

If able to do so, I would encourage a more visible presence between the Board and the broader public it serves. Public education regarding the lifer process and rate of recidivism of a life inmate granted parole would be informative to the public. At present, media coverage of parole violators does not distinguish between a parolee who committed a life crime and a parolee who did not.

Senate Rules Committee

MAY 12 2009

Appointments



### **Training**

*The 2005 law that created BPH requires that within 60 days of appointment and annually thereafter commissioners and deputy commissioners undergo a minimum of 40 hours of training.*

**3. *Now that you have chaired hearings for some years, do you have recommendations for training improvement?***

BPH training has vastly improved since my appointment in 2005. BPH now involves the Commissioners in development of training needs by conducting a training needs self assessment. This permits each Commissioner the opportunity to identify topics for future training sessions. The issues I identified have been addressed.

**4. *When a procedural question arises during a hearing you are chairing at an institution, who is available to assist you to answer the question? During previous BPH confirmation hearings, board members have raised concerns about the lack of support available to them by phone from Sacramento. Do you believe you get the help you need in a timely way so that hearings are not needlessly delayed?***

Commissioners now have several points of contact at BPH headquarters that are available by cell phone. The BPH legal unit is available for questions on matters of a legal nature. Commissioners also have additional contacts with program subject matter experts and scheduling. The system is working and prevents unreasonable delays in hearings. In fact, delays are rare.

**5. *The hearings you chair can sometimes involve complex legal or procedural issues. Does anyone continue to monitor your performance as a "lifer" panelist, either in person or through a review of transcripts, so that you may continue to improve your performance?***

I am aware that staff at BPH headquarters monitor and evaluate my decisions on a daily basis. This is accomplished by review of the Lifer Scheduling and Tracking System and hearing transcripts.

**6. *What should the Legislature expect from commissioners regarding consistency in lifer hearings? Should all of the commissioners and deputy commissioners weigh the various factors in a consistent manner?***

The Legislature should expect Commissioners to apply the law in a consistent manner. Commissioners and Deputy Commissioners should strive for this consistency in weighing the suitability factors considered at the hearing. It is important to note that

each case is considered individually and that reasonable minds can come to different outcomes.

**7. *How long should an inmate be “disciplinary free” before you consider granting a release date, assuming all other pertinent issues indicate he/she is ready to be released? Is there a policy? What guideline do you use?***

There is no policy or guideline regarding how long an inmate should be discipline-free before becoming suitable for parole. BPH has provided training regarding the considerations that should be taken into account in the evaluation of inmate misconduct. It is unusual to find an inmate with disciplinary problems that do not impact other areas of institutional adjustment such as programming. Depending on the extent and magnitude of the discipline, the inmate may be precluded from some or all programming.

I consider several different factors regarding an inmate's disciplinary history. Most important is the severity: does it involve violence or the potential for violence or does it reflect an on-going pattern of misconduct. Equally important in evaluating a disciplinary action is the determination of the inmate's attitude concerning his misconduct.

**Proposition 9**

*Voters in November 2008 enacted Proposition 9, a major change in hearings for life-term inmates and an expansion of victims' rights. An inmate with an indeterminate life sentence had been required to receive an initial hearing one year prior to the inmate's minimum eligible parole date. Subsequent hearings occurred between one and five years apart for murder convictions, and between one and two years apart for non-murder convictions. Under the new law, one-year denials are no longer an option. Commissioners must first consider a 15-year denial. Commissioners also must use a “clear and convincing evidence” standard in determining the appropriate denial length, down to a three-year denial—now the minimum time allowed between hearings. However, inmates are able to periodically request that the board advance the hearing date.*

**8. *What changes in hearings have you seen as a result of the passage of Proposition 9, and how have they impacted the board's workload?***

There has been limited impact in my workload as a result of the passage of Proposition 9 (Marsy's Law). The hearing script changed to meet the requirements of the denial scheme under the new law and there has been an increase in the number of objections related to the application of Proposition 9 by inmate's counsel at hearings.

9. ***Commissioners were provided additional training to deal with changes brought by Proposition 9. Please explain how you were told to determine what "clear and convincing evidence" is. How do you know whether to deny parole, for example, for 15 years or 3 years?***

Commissioners were provided training on this topic and were instructed that the determination of suitability and unsuitability remains unchanged. The change as a result of Proposition 9 occurs when an inmate has been determined to be unsuitable and then deciding the appropriate denial length. We were trained by BPH legal staff as to the meaning and use of the clear and convincing standard of proof in issuing a denial. Clear and convincing evidence is used to reduce the denial length from 15 to 10 years and 10 years to a lesser length. If there is no substantial doubt that the inmate does not require a 15 or 10-year denial to attain suitability, then I would order a lower denial length.

10. ***How are you kept abreast of legal actions that could impact implementation of Proposition 9?***

BPH legal staff provides legal briefings at the monthly Board meetings. Additionally, we receive legal updates via e-mail and are notified via e-mail and telephone of any legal issue that may impact a specific hearing. Further, the district attorney representatives and inmates' attorneys are another source of legal information.

11. ***Are you seeing changes in your workload as a result of the passage of Proposition 9?***

There was an expectation that passage of Proposition 9 would result in an increase in the participation by victims and victim's next of kin in hearings. Since December 2008, I have not experienced any increase that would demonstrate a significant change in workload. Although I did conduct one hearing in which there were eleven victims, victim's next of kin and victim's representatives present to testify at the hearing.

### **Programs**

*Prisons have a wide variety of academic and vocational programs as well as self-help offerings, such as Alcoholics Anonymous. Commissioners may recommend an inmate enroll in a particular program to better prepare himself or herself for life outside of prison.*



**12. *How do you learn about educational, vocational, or self-help programs in state prisons? Which programs have you observed and when? Please be specific.***

Commissioners have been provided with program information for each institution. Also individual staff at each institution is available to provide updates as to any changes in program availability. For example, during the state budget delay last year many programs were impacted and were not available.

In early 2009, I had the opportunity to visit the Substance Abuse Program (SAP) at California State Prison-Solano. During my visit, a show of hands revealed that the majority of participants were lifer inmates. The program was designed to instill positive values in the inmates. One inmate spoke to the concept of pushing up and pulling up individuals in need of assistance.

While working at the Correctional Training Facility (CTF), I have become acquainted with many of the porters that are responsible for maintaining the hearing room facilities at the institution. One such individual is a life inmate that I have known since 2005 and was given a grant by a panel in April 2009. Also this spring at CTF, I spoke with an inmate who appeared for a hearing in front of me about his assignment to the Inmate Day Labor crew. We discussed his work on the new exercise area for segregated inmates.

**13. *How are you taught to know if a particular program is effective? If you recommend participation in a specific program for an inmate, do you know if it is available to the inmate?***

I evaluate a program's effectiveness by questioning the inmate. For example, an inmate who claims to have participated in a 12-step program such as Alcohol or Narcotics Anonymous is questioned regarding their knowledge of the 12 steps. Often, an inmate can parrot the steps but provide little if any personal understanding of what the steps mean to them. Another example is where an inmate has attended anger management programs; I ask questions about their knowledge of their personal triggers of anger.

One of the best sources concerning the availability of programs is to ask the inmate what is available at the institution. Recently transferred inmates arriving at an institution must sign-up for programs and are usually placed on a waiting list. In the absence of available programming, I encourage and recommend that inmates become involved in self-study.

- 14. *What role do you play, if any, in recommending programs to CDCR? Would you ever recommend increased education or literacy as a way to help an inmate become more suitable for parole?***

Currently, Commissioners do not have a role in recommending program development to the Department of Corrections and Rehabilitation. There is no question that increased availability of educational opportunities and literacy advancement would help many inmates work towards becoming suitable for parole.

- 15. *As the department moves to focus academic and vocational programs on inmates being paroled in the coming three years, how will life-term inmates obtain the wide variety of programming commissioners recommend for them to qualify for release? Do BPH members participate in these policy decisions?***

BPH Commissioners do not currently participate in the strategic planning or policy development of programming for life inmates. Life inmates begin their programming: education, vocation, or self-help, long before they come to their first suitability hearing.

- 16. *The lifer panel has, by tradition, expected lifers to provide specific parole plans at the time of the lifers' hearings. In an economy where unemployment is climbing and finding a job has become increasingly difficult, even for those with good job skills, has your expectation about the specificity of a lifer's parole plans changed? Do you require a lifer to have secured a job on the outside at an unspecified future date should he or she be found suitable for parole? Are you aware of any assistance provided to lifers who are expected to present you with parole plans?***

I always share my concern regarding the current dilemma regarding the employment landscape if released in to the community. Title 15 sets out the suitability factor we are to consider in this area. It provides in §2402 (d)(8) "*Understanding and Plans for Future.*" – *The prisoner has made realistic plans for release or has developed marketable skills that can be put to use upon release.* If an inmate has a specific job offer upon release it is a definite plus for the inmate. There is no requirement that the inmate have a job in hand to become suitable, but the parole plans have to be realistic in describing how they will support themselves financially and emotionally.

Often inmates are assisted in preparing parole plans by their attorney. I try to provide the inmate with recommendations on how to solidify their parole plans for their appearance at future hearings.

### **Psychological Evaluations**

*The packet of materials available to the hearing panel traditionally includes a psychological evaluation of the inmate. The timeliness and quality of the evaluation has been criticized in the past by all parties. The historic lack of clear BPH policy regarding the appropriate interval between evaluations has been discussed regularly by the Rules Committee. The absence of a "current" psychological evaluation is often the reason for a hearing postponement.*

*Recently, BPH introduced a new strategy as part of its effort to reduce the backlog of lifer hearings. A new psychological evaluation, called a Comprehensive Risk Assessment (CRA), has been implemented and will be valid for five years. A secondary report, known as a Subsequent Risk Assessment, will be conducted as an update for hearings held prior to the five-year expiration of the CRA. Reports completed prior to January 1, 2009, will remain valid for three years from their completion date, or until used in a hearing resulting in a decision.*

**17. *What is your recent experience with psychological evaluations? Are they still a cause of hearing postponements?***

The preparation of psychological reports in a timely manner has improved to the point where hearing postponements associated with this issue are rare. Additionally, the quality and consistency of these reports have greatly improved.

**18. *How have you been trained regarding the role a psychological evaluation should play in your decision regarding parole suitability? How much weight should it be given?***

Commissioners have received training in May and December 2008 regarding the use of psychological reports in hearings. The reports contain very valuable information that is considered in application of the suitability factors, specifically, the past and present mental state and inmate's attitude towards the crime. The psychological report offers the panel a spring board for questions regarding insight in the inmate's understanding of his conduct and presence of remorse. The report is another source of information that the panel considers in determining whether an inmate is suitable.

**19. *Do you believe the risk assessment information contained in the psychological evaluation is useful to you in making a decision?***

The risk assessment information is a valuable tool for the panel to consider. Each assessment is supported by facts found in the report and those facts become the areas of questioning to the inmate. The risk assessment is an expert opinion provided to the panel for their consideration in determination of suitability.



## Hearings

*BPH members conduct their hearings in close quarters, inside state prisons in two-person panels. Sometimes commissioners hold hearings for out-of-state inmates via telephone from a hearing room in Sacramento. Most hearing documents typically are forwarded to them just prior to the hearings.*

**20. *Your working conditions can be difficult and your hearings can be long. Do you have any suggestions for how the process could be improved?***

Our present hearing schedule is 16 hearings a week with 4 hearings scheduled on Tuesday through Thursday. A time study conducted several years ago determined that the average hearing required two and half to three hours to complete. There are a number of variables in each hearing that can make it long or shorter. These variables are the presence of victims or victim's next of kin, presentations of district attorney's representatives or inmates' counsel, or the use of a foreign language interpreter. Our hearing schedules do not take into account the institutional delays that often occur regarding temporary lockdowns and inmate movement issues. All this taken together supports a decrease in the number of hearings scheduled each week so that the working conditions would improve.

**21. *When do you prepare for hearings? When is the board packet made available to you? Please evaluate the current system and discuss your ability to completely review the file and be fully prepared for a hearing.***

Board packets usually arrive at my residence one to two weeks prior to the week of the hearing. This delivery method is fine and does not require any change.

I prepare and review assigned cases the weekend before the scheduled hearing week. Normally, an initial review of the week's cases requires approximately three plus hours. In addition, I conduct a second review the evening before the hearings which takes another hour. This approach provides me with the opportunity to be fully prepared for the hearing.

Prior to the start of a hearing, the panel completes an examination of the Central file to ensure review of any late documents which may not have been included in the board packet.

**22. *Please evaluate the en banc hearing process. When the full board is asked to decide a case because of a split decision between the BPH member and deputy commissioner on the five (two) person lifer***

***panel, or when the Governor asks the board to look at information he believes was overlooked initially, do you believe you have the information you need to reach a fair decision?***

I feel the En Banc hearing process has evolved in a very positive manner. Prior to each monthly Board meeting a Commissioner is assigned one or more of the cases scheduled for En Banc review. The Commissioner who presided over the case at issue is not assigned to review the case for the En Banc review. The assigned Commissioner presents the case during the closed session. After consideration of any comment from the public on a case, a review of the written materials and presentation by the Commissioner, I believe I have sufficient information to reach a fair decision.





Senate Confirmation  
Michael F. Prizmich, Commissioner  
Board of Parole Hearings  
Responses to Senate Rules Committee Questions  
May 11, 2009

Michael Prizmich  
Responses  
BPH

**Statement of Goals**

1. ***What are your goals and objectives as a commissioner of BPH? How will you measure your success in this term?***

My goals and objectives are to provide a fair hearing that offers the opportunity for all participants to be heard. The hearing should provide an open exchange so that the inmate and the panel have a forum to learn, communicate and evaluate all of the available information in making a decision regarding suitability.

2. ***In a written response to the Rules Committee submitted before your confirmation in 2007, you said you would measure your success "through the commentary and interaction of those attorneys and staff that that have experienced my work and provided feed back to me." Please discuss what kind of feedback you've experienced and what that has told you about your performance.***

The longer I hold this position, the more opportunities arise to receive feedback from the attorneys and staff. In my conversations with inmate's counsel and district attorney's representatives I receive nothing but positive comments overall the content and fairness of my hearings. Our conversations range in topic from the hearing process to the implementation of Proposition 9/Marsey's Law as well as other legal issues. I have been approached by inmate's counsel offering letters of support to the Senate Rules Committee for my upcoming Senate confirmation. I have declined these letters of support and believe the volume of my work as a Commissioner provides enough information for the Senate Rules committee to decide if I should be confirmed.

3. ***You have served as a BPH member since 2007. Do you believe the lifer hearing process serves the public, the inmate, and the victims equally well? If you were able, what improvements would you make?***

The public, victims and victim's next of kin are given ample opportunity to present their perspectives and information to the panel at hearing. The inmates would be better served if programs and vocational training could become more available. The current budget deficit situation has made this lack of programs and training a critical issue for inmates. There should be a greater effort to invest in identifying and utilizing more volunteer assistance to provide the necessary and needed programming to inmates.

**Senate Rules Committee**

MAY 12 2009

**Appointments**

## **Training**

*The 2005 law that created the BPH requires that within 60 days of appointment and annually thereafter commissioners and deputy commissioners undergo a minimum of 40 hours of training.*

- 4. *Now that you have chaired hearings since 2007, how do you evaluate the quality of your training? You previously stated that you believed commissioner training could be improved with a more gradual transition for new members. Has this been implemented? Do you have other recommendations for training improvement?***

The training for Commissioners has improved. From my perspective, the new Commissioners were exposed to backlog issues and pressure to conduct hearings when it would have been more helpful for them to gradually transition into their roles as Commissioners. I would recommend more training sessions be provided and an increase in dialog between the Board of Parole Hearings (BPH) and the Commissioners regarding our duties.

- 5. *You said in 2007 that only one of your hearings was attended by someone from BPH and that you did not receive any feedback. Please discuss if that has changed over the past year.***

I have not had staff from BPH attend my hearings since my confirmation in January 2008.

- 6. *When a procedural question arises during a hearing you are chairing at an institution, who is available to assist you to answer the question? During previous BPH confirmation hearings, board members have raised concerns about the lack of support available to them by phone from Sacramento. Do you believe you get the help you need in a timely way so that hearings are not needlessly delayed?***

I can speak only to my experience as a Commissioner. There has been one staff member that I have called, whom I know will almost always be available to get my answer. There have been changes put in place regarding support from BPH headquarters, but I call the staff person I have always called. There have been no delays in the hearings, as the staff person I call is reliable and responsive to my questions.

**7. *What should the Legislature expect from commissioners regarding consistency in lifer hearings? Should all of the commissioners and deputy commissioners weigh the various factors in a consistent manner?***

Each Commissioner is provided with a general format that is followed at each hearing. Each hearing is considered individually and each Commissioner brings different expertise and experience to the table as a hearing officer. With continued training regarding the suitability factors found in Title 15 and increased institutional program availability, suitability hearings should be somewhat consistent.

**8. *How long should an inmate be "disciplinary free" before you consider granting a release date, assuming all other pertinent issues indicate he/she is ready to be released? Is there a policy? What guideline do you use?***

There is no policy or guideline in place regarding "disciplinary free" time before an inmate can be considered suitable for parole. The issues surrounding institutional misconduct are varied and broad. For example, violence and narcotics violations are of great concern. In these cases, it is imperative that the panel really needs to do more than just report the facts of the misconduct, but to actually look into the write-up and ask the inmate questions about the violation. In situations that the misconduct includes repeated violence or narcotic use, there needs to be a period of time where the inmate demonstrates that he/she can conform to the rules and regulations of the institution before he/she can become suitable for parole. It is also important to take into consideration the inmate's housing. An inmate in dorm housing has a much greater challenge to remain disciplinary-free than an inmate who is housed in a cell and this should be taken into consideration.

**Proposition 9**

*Voters in November 2008 enacted Proposition 9, a major change in hearings for life-term inmates and an expansion of victims' rights. An inmate with an indeterminate life sentence had been required to receive an initial hearing one year prior to the inmate's minimum eligible parole date. Subsequent hearings occurred between one and five years apart for murder convictions, and between one and two years apart for non-murder convictions. Under the new law, one-year denials are no longer an option. Commissioners must first consider a 15-year denial. Commissioners also must use a "clear and convincing evidence" standard in determining the appropriate denial length, down to a three-year denial—now the minimum time allowed between hearings. However, inmates are able to periodically request that the board advance the hearing date.*



**9. *What changes in hearings have you seen as a result of the passage of Proposition 9, and how have they impacted the board's workload?***

The number of victims and victim's next of kin in attendance at hearing has increased and the scope and length of their statements has expanded as a result of the passage of Proposition 9/Marsy's law. Additionally, the analysis and decision regarding suitability has become more complex and involved, particularly the delivery of the final decision when a denial is the result. The hearings are taking longer and this results in longer work days at the institution.

**10. *Commissioners were provided additional training to deal with changes brought by Proposition 9. Please explain how you were told to determine what "clear and convincing evidence" is. How do you know whether to deny parole, for example, for 15 years or 3 years?***

We received training in December 2008 from BPH legal staff and subject matter experts on what clear and convincing evidence means and how it applies to the denial decisions at lifer hearings. In determining the length of the denial, my view of a 15-year denial arises when an inmate's performance in prison falls short of positive progress. As an example, the inmate's classification score is in the triple digits, there are disciplinary actions for violence, Administrative Segregation Housing placements, limited or no programming, no parole plans and a refusal to work with the staff at the institution would require a 15-year denial. The most difficult denial length is the 3-year denial because in my view, it is too long for those inmates who are close to suitability. These inmates are the mirror opposite of the inmate in the above example.

**11. *How are you kept abreast of legal actions that could impact implementation of Proposition 9?***

The BPH legal staff provides legal updates during the month via e-mail or voicemail and also during our monthly Board meetings. I have also experienced inmate's counsel to be very helpful as a resource for legal information.

**12. *Are you seeing changes in your workload as a result of the passage of Proposition 9?***

As stated in my previous response to question #9, the number of victims and victim's next of kin attending hearings has increased, as well as the expansion of the scope and length of their statements. Additionally, the analysis and decision-making process for each of the hearings has become more complex and involved. The hearings are taking longer due to these issues.

### **Programs**

*Prisons have a wide variety of academic and vocational programs as well as self-help offerings, such as Alcoholics Anonymous. Commissioners may recommend an inmate enroll in a particular program to better prepare himself or herself for life outside of prison*

- 13. *If you recommend participation in a specific program for an inmate, are you certain it is available to the inmate? Commissioners are now supposed to receive updated profiles outlining programs offered at each institution. Do you receive those lists?***

We were provided a comprehensive list of all available programming at each institution in December 2008. The expectation is that this listing will be updated and provided to Commissioners on a semi-annual basis. As time passes, the accuracy of this listing comes into question. I have conducted hearings long enough now to have a fairly good understanding of what institutions have which programs. Several times each month, I contact the correctional staff and Classification and Parole Representative at the institution to get an update on what programs are currently available.

- 14. *Also in your written responses in 2007, you said your workload had prevented you from observing prison programs. Given the relatively large number of hearings cancelled in past years on the day of the hearing, when were you able to take time to observe programs, if at all? Please be specific. How do you evaluate which programs are effective?***

I have observed the Substance Abuse Program (SAP) at the California State Prison-Solano. I was given a tour of the program and was informed that this program is in various stages of implementation in other prisons. I spoke with several inmates about the program during my tour that had received high quality training and were going to be the providers/leads in the programs for the inmates. I have also toured the Prison Industries Authority program at Avenal. My evaluation of the programs available to the inmates comes from speaking with the inmates during hearings.

- 15. *What role do you play, if any, in recommending programs to CDCR? Would you ever recommend increased education or literacy as a way to help an inmate become more suitable for parole?***

I have submitted a number of written and verbal recommendations to CDCR, institutions and BPH regarding improvements in programming.



- 16. *As the department moves to focus academic and vocational programs on inmates being paroled in the coming three years, how will life-term inmates obtain the wide variety of programming commissioners recommend for them to qualify for release? Do BPH members participate in these policy decisions?***

Although BPH does not currently participate in the CDCR policy decisions, I will continue to make suggestions recommending a focus on strengthening volunteer efforts in providing educational and vocational programming. The current budget situation will not improve soon and there are far too many groups competing for what funds are available. One untapped resource is the growing number of retirees with experience and expertise in education and vocations. The only institution I am aware of that engages in development of volunteer programs is San Quentin. They have a number of very successful programs.

- 17. *The lifer panel has, by tradition, expected lifers to provide specific parole plans at the time of the lifers' hearings. In an economy where unemployment is climbing and finding a job has become increasingly difficult, even for those with good job skills, has your expectation about the specificity of a lifer's parole plans changed? Do you require a lifer to have secured a job on the outside at an unspecified future date should he or she be found suitable for parole? Are you aware of any assistance provided to lifers who are expected to present you with parole plans?***

There is no requirement that an inmate have a job or job offer to be found suitable for parole. An inmate's parole plans must be realistic or have developed a marketable skill that can be put to use upon release. The economy has indeed changed and made it more challenging for inmates who have received grants of parole. I strongly urge inmates and their attorneys to consider the many transitional housing options and many social service agencies who work specifically with inmates to find jobs and job placements. In those cases where jobs are difficult to find, I look to close family ties or job placements services or transitional housing programs to aid the inmate in successfully reintegrating into the community.

### **Psychological Evaluations**

*The packet of materials available to the hearing panel traditionally includes a psychological evaluation of the inmate. The timeliness and quality of the evaluation has been criticized in the past by all parties. The historic lack of clear BPH policy regarding the appropriate interval between evaluations has been discussed regularly by the Rules Committee. The absence of a "current" psychological evaluation is often the reason for a hearing postponement.*



*Recently, BPH introduced a new strategy as part of its effort to reduce the backlog of lifer hearings. A psychological evaluation, called a Comprehensive Risk Assessment (CRA), has been implemented and will be valid for five years. A secondary report, known as a Subsequent Risk Assessment, will be conducted as an update for hearings held prior to the five-year expiration of the CRA. Reports completed prior to January 1, 2009, will remain valid for three years from their completion date, or until used in a hearing resulting in a decision.*

**18. *What is your recent experience with psychological evaluations? Are they still a cause of hearing postponements?***

There has been dramatic improvement in the timely completion of the psychological reports for suitability hearings since June 2008. The number of postponements for lack of completed psychological reports has dropped so dramatically that I haven't had one in over a month and it is seldom a reason for postponement any more.

**19. *How have you been trained regarding the role a psychological evaluation should play in your decision regarding parole suitability? How much weight should it be given?***

The Commissioners received training on how a psychological report comes into consideration at a lifer hearing at the December 2008 training. This report is another piece of information for the panel to consider in determining an inmate's suitability. The report provides much information about the inmate's understanding of his criminal conduct, insight into the causes of his criminal behavior, remorse for his conduct in relation to the victim, victim's family and society in general. The information contained in the report is considered by the panel and weighed with all the other information using the Title 15 factors of suitability.

**20. *Do you believe the risk assessment information contained in the psychological evaluation is useful to you in making a decision?***

The risk assessment information is very useful to the panel. Each assessment is based on information found in the report. This information is considered by the panel with all other relevant information concerning suitability.

**Hearings**

*BPH members conduct their hearings in close quarters, inside state prisons in two-person panels. Sometimes commissioners hold hearings for out-of-state inmates via telephone from a hearing room in Sacramento. Most hearing documents are forwarded to them just prior to the hearings.*

- 21. *Your working conditions can be difficult and your hearings can be long. Do you have any suggestions for how the process could be improved?***

Quite frankly, I enjoy the travel and only when a hearing goes well into the evening does the schedule get to be difficult to handle. One suggestion I would make is that no hearing should begin after 5 or 6 p.m.

- 22. *When do you prepare for hearings? When is the board packet made available to you? Is new information often provided to you just before a hearing commences? Please evaluate the current system and discuss your ability to completely review the file and be fully prepared.***

For the past several years, I have decided to drive to BPH headquarters and pick up my board packets and mail. I receive the board packets several weeks in advance. My preparation for hearings has become more efficient, and takes me less time than when I first started. New information is provided in the week before the hearing but that has become a less frequent occurrence. Inmates and their counsel will frequently present information prior to the commencement of the hearing.

- 23. *Please evaluate the en banc hearing process. When the full board is asked to decide a case because of a split decision between the BPH member and deputy commissioner on the two person lifer panel, or when the Governor asks the board to look at information he believes was overlooked initially, do you believe you have the information you need to reach a fair decision?***

We receive all the necessary information to make an informed and fair decision during the En Banc process. Rather than disagreeing or agreeing with the Governor's concerns, I would recommend that the full Board have the opportunity to respond in writing.

**Adam Hubbard***Goals*

May 1, 2009

Senate Rules Committee  
Darrell Steinberg, Chair  
State Capital – Room 420  
Sacramento, CA 95814-4900

RE: California Arts Council appointment STATEMENT for confirmation hearing on June 3, 2009

Dear Senate Rules Committee Members,


For the past 18 years I have been an Art Educator teaching Ceramics, Drawing, and Painting to children and young adults. During this time in both private and public schools -- as well as in the mental health field working with at-risk children and young adults -- I have seen a huge change of direction concerning support for the arts and arts education. When budgets are questioned and funding is tight, the visual and performing arts are the first subjects to be cut. This is a growing problem, one that does a great disservice to the youth of our state. The arts are not a luxury. They are essential. Arts education: can benefit every young person's development, intellect, self-confidence and imagination.

It is a proven fact that the creative process of making art develops and uses the entire brain, and not -- as was thought in the past -- isolated parts of the brain, what is commonly described as "right-brain" thinking<sup>1</sup>. Research shows that the creative process of art-making makes people smarter, makes them more aware of their surroundings, and facilitates problem solving. Given this new understanding of the creative process, it makes sense that schools implement more visual and performing arts education into their schools, not less.

There has to be a balance, rather than disregarding or brushing off the importance of art to our society. Incorporating the arts into everyday life provides measurable benefits. My short and long term goals are to press on as an advocate for the arts in our communities and in our schools, and to continue to inspire, inform, and educate with extreme fervor and dedication. The most effective way to reach my audience is to incorporate the past with the present in an historical framework. The arts are an integral component in ongoing discoveries in the academic fields of math, science, and language arts.

I believe that as the sole full-time arts educator on the California Arts Council, I can serve as the voice of the visual and performing arts teachers in California, as well as a voice for the children and youth who are eager to express themselves artistically and are craving knowledge of the visual and performing arts. I believe that my serving on the California Arts Council may benefit the state of California through my insight into visual art education and my knowledge of the educational system as a whole.

Sincerely,



Adam Hubbard

<sup>1</sup> Learning, Arts and the Brain: the Dana Consortium Report on Arts and Cognition, released on March 4, 2008, and organized by Michael Gazzaniga, Ph.D., University of California at Santa Barbara.

**Senate Rules Committee**

MAY 04 2009

**Appointments**





# MARIN COUNTY SHERIFF'S OFFICE

3501 Civic Center Drive, Room 145, San Rafael, CA 94903

ROBERT T. DOYLE

Sheriff

TIMOTHY J. LITTLE

Undersheriff

Sheriff Robert Doyle  
Responses  
POST

May 18, 2009

The Honorable Darrell Steinberg, Chairman  
Senate Rules Committee  
State Capitol, Room 420  
Sacramento, CA 95814-4900

Dear Chairman Steinberg:

In response to your letter dated April 29, 2009, below I will be providing the information that you requested. For your information I was appointed to the POST Commission by Governor Schwarzenegger in 2006 and confirmed by the Senate in the spring of 2007. I represent the California State Sheriff's Association on the Commission. In addition to attending the Commission meetings I am also a member of the Long Range Planning and Legislative Committees.

Most of the information that you are requesting is similar to my response in March of 2007, so I am providing you a copy of that letter. Also included are a number of attachments for background information for the Senate Rules Committee. My responses are my views as I see the Commission in conjunction with discussions I have had with POST Staff in preparation of my responses. I have also enclosed my Form 700.

## Goals

1. Are you satisfied with your progress toward meeting these goals? How do you measure progress? How have your goals changed since you were first appointed?

Senate Rules Committee

MAY 19 2009

Appointments

"In Partnership with our Communities"

[www.marinsheriff.org](http://www.marinsheriff.org)

[www.co.marin.ca.us](http://www.co.marin.ca.us)

AREA CODE 415

24-HOUR NUMBER  
499-7233

FAX  
507-4126

ADMINISTRATION  
499-7250

CIVIL  
499-7282

COMMUNICATION  
SERVICES  
499-7243

COURTS  
499-7393

EMERGENCY  
SERVICES  
499-6584

INVESTIGATIONS  
499-7265

JAIL  
499-6655

MAJOR CRIMES  
TASK FORCE  
884-4878

PATROL  
499-7233

RECORDS  
499-7284

WARRANTS  
499-7297

I am satisfied with the progress of these goals as stated in my letter dated March 20, 2007. The goals of the Commission and POST Staff really represent the foundation in which POST can deliver an outstanding product. I found it easy to measure the progress because the POST Strategic Plan is on the Agenda every POST meeting and additionally I am a member of the Long Range Planning Committee that reviews progress. My goals remain the same. See Attachment A.

## **Recruitment**

2. What is the status of any initiatives the Commission has taken to steer youth toward careers in law enforcement? What outcomes, if any, have you experienced so far?

To my knowledge this is not a Commission initiative. In terms of "steering youth toward careers in law enforcement " the Commission is interested and is monitoring a number of programs throughout the State. Most law enforcement agencies throughout the state have always had Explorer Scout Programs, Internship Programs and a variety of Volunteer Programs that include youth participation. I am including Attachment B which describes some of the programs law enforcement agencies are involved in across the State and these are programs that Post Staff is aware of and monitoring. Independent of the POST Commission my organization offers a number of opportunities for youth in our community. Some programs introduce youth to the operation of the organization and other programs such as Search and Rescue expose youth to technical skills and life skills such as teamwork, self esteem, confidence, etc. Other programs provide information and/or skills necessary for a peace officer applicant.

3. *What have you done to help departments recruit qualified candidates? What steps have you taken to help departments weed out potentially subpar employees before they are hired?*

Since 1989 POST has conducted five recruitment symposiums. The two largest ones took place in 2001 and 2005. Each involved presentations by subject matter experts about recruitment and retention issues. Several hundred representatives of law enforcement agencies attended these symposia. POST also provided training with an emphasis on the needs of executives and recruiters.

Strategic Plan objective C.3.06 – *Develop a comprehensive plan for POST's role in addressing law enforcement recruitment issues*, has guided the efforts of POST staff to address recruitment issues since 2006. At the 2008 Strategic Plan Stakeholders meeting, it was

recommended that public safety dispatchers be included in the recruitment plan.

In 2001 and again in 2006, POST conducted considerable research into the issues surrounding recruitment and retention of peace officers. The result of the research was the development of two publications, *Peace Officer Recruitment and Retention: Best Practices – July 2001* (<http://www.post.ca.gov/selection/recruit.pdf>) and *Recruitment and Retention Best Practices Update – April 2006* (<http://www.post.ca.gov/training/bestpractices/RecruitmentBestPrac.pdf>). Both documents provide sound methods for improving the efforts of law enforcement agencies to successfully recruit and retain peace officers.

I believe it is POST's responsibility to develop the necessary tools for law enforcement to establish the criteria by which all law enforcement recruit peace officers. I believe if followed most "sub par applicants" won't make it through the entire process and will not be hired. That being said there is no screening process that is fool proof and everyone in law enforcement has to be diligent and look for those signs and take the appropriate action.

4. *What impact has the nation's slowing economy had on recruitment of officers? Do you see a wider role for the Commission in publicizing the need for qualified police personnel?*

There has been a state-wide crisis in recruitment and retention for quite some time. There are many agencies concerned about the shrinking pool of eligible applicants. The results of a comprehensive survey conducted by POST in 2007 revealed that agencies wanted POST to invest in marketing, regional testing, recruiter training and development of best practices on recruitment and pre-academy preparation materials for candidates. In addition, POST will soon publish a *Recruitment Strategic Planning Guide* which I think will be helpful in the effort. Additionally, each individual agency has a stake in marketing and attracting and retaining qualified employees. I believe that this needs to be a partnership between POST and law enforcement agencies.

5. *What role should the Commission play, if any, in working with high schools or middle schools to address California's high dropout rate?*

As a social responsibility I am sure I can speak for my colleagues on the POST Commission when I say the drop out rate in California is inexcusable. I think when ever we lose one kid to drop out we have all failed. In my community we have developed a School Law Enforcement Partnership where we address truancy, bullying, gang violence, etc. The



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POST Commission's role is establishing training standards for peace officers state-wide.

### Training

6. *How have recent budget cuts impacted your training programs? Are you encouraging agencies to utilize more online courses?*

During these challenging economic times, POST is well aware of the limitations many cities and counties have placed on staff travel. This is reflected in reduced numbers of trainees being able to travel to a training site to receive training. POST has reacted to this reality by ensuring that its staff keeps the law enforcement community informed about the availability of online training. Some of the benefits of online training include access to training 24/7, consistent quality of training, the ability of rural agencies to more easily access needed training, savings in travel/presentation costs, and economies of scale where the more training that takes place the less it costs per student.

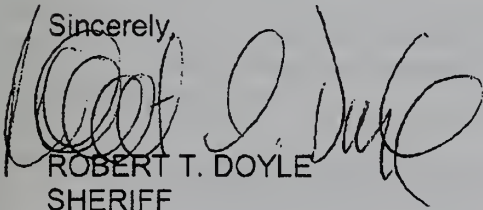
### Website

7. *What plans do you have to regularly update your web site? What do you believe is POST's responsibility to communicate with the public through its web site?*

I am surprised by the question. To my knowledge the website is regularly updated and in terms of POST's responsibility to communicate with the public the POST Staff is currently complying with the law and various executive orders issued by the Governor's Office in terms of public access. Of course the public does not have access to training portal because a password is required.

If you have any further questions, please feel free to contact me.

Sincerely,



ROBERT T. DOYLE  
SHERIFF

Enclosures





# CALIFORNIA COMMISSION ON PEACE OFFICER STANDARDS & TRAINING

## STRATEGIC PLAN – 2008

1601 Alhambra Blvd. – Sacramento, CA 95816 – (916) 227-3909 – [www.post.ca.gov](http://www.post.ca.gov)

REVISED 2/09/09

The mission of the California Commission on Peace Officer Standards and Training (POST) is to continually enhance the professionalism of California law enforcement. To accomplish this important responsibility, this Strategic Plan aligns POST's activities and priorities with the needs and expectations of POST's clients and partners. It provides direction for POST to achieve its mission, to develop future budget requests, and to set priorities. The Plan provides guidance not only for "what" POST does, but also for "how" POST will accomplish its goals and objectives.

POST wishes to thank all those law enforcement and training professionals who dedicated their time and talents in providing input into the revisions included in this Strategic Plan.

Questions concerning this Plan should be directed to Assistant Executive Director Alan Deal at (916) 227-2807.

### GOAL A – RAISE THE BAR ON SELECTION AND TRAINING STANDARDS

<b>SPO #:</b> A.1.02	<b>Establish personality assessment for entry-level selection.</b>	
<b>Status on:</b> 2/09/09	In progress. In April 2007, the Commission approved a staff recommendation to develop a resource document and monitor agencies using pre-employment personality assessment tests. The resource document is nearly complete and staff has compiled a searchable database of information from test publishers to assist agencies interested in using pre-offer personality tests. The resource document will be available on the POST website and the test publisher information will be available via a separate online database. The project is expected to be completed in July 09.	
<b>Bureau(s) Assigned:</b> S&E	<b>Staff Assigned:</b> Berner	<b>Completion Anticipated:</b> Jul-09
<b>Notes and/or Strategies:</b>		

<b>SPO #:</b> A.2.08	<b>Review POST's Continuing Professional Training (CPT) and Perishable Skills Program (PSP) requirement to include assessment of needs, content, benefits, time/hours and frequency.</b>	
<b>Status on:</b> 2/09/09	In progress. Staff has reviewed POST CPT history and is comparing standards to those of other IADLEST members. A report to the Commission will be made in July 2009.	
<b>Bureau(s) Assigned:</b> TPS	<b>Staff Assigned:</b> Gustafson	<b>Completion Anticipated:</b> Jul-09
<b>Notes and/or Strategies:</b>		





## Commission on Peace Officer Standards and Training – Strategic Plan – 2008

### GOAL A – RAISE THE BAR ON SELECTION AND TRAINING STANDARDS

SPO #: A.3.02	Research and develop physical abilities assessment for entry into basic academies.	
Status on: 2/09/09	On hold. Work has been temporarily stopped pending reevaluation of the Basic Academy Physical Conditioning Program. A report to the Commission will be made in April 2009.	
Bureau(s) Assigned: S&E	Staff Assigned: Catlin	Completion Anticipated: Jul-10
Notes and/or Strategies:	Recent BCCR findings reflect few academies are conducting a standardized physical conditioning program; thus compromising the defensibility of a standardized assessment test minimum passing score. Staff has begun work to review and revise the conditioning program before continuing with the assessment test pilot implementation.	

<b>SPO #:</b> <b>A.4.02</b>	<b>Standardize skill testing for the Basic Course.</b>	
<b>Status on:</b> 2/09/09	In progress. Skill-based competencies and scoring criteria have been developed for Defensive Tactics, Vehicle Operations, and Firearms. A pilot study of the Arrest Methods form will be concluded this Spring. Further work on the Vehicle Operations procedures will address new training and assessment needs identified in the Driver Training Study. A report to the Commission will be made in April 2009.	
<b>Bureau(s) Assigned:</b> S&E	<b>Staff Assigned:</b> Krueger/Foster	<b>Completion Anticipated:</b> Apr-10
<b>Notes and/or Strategies:</b>	The project's products have been well received by the academies.	

<b>SPO #:</b> <b>A.5.04</b>	<b>Develop a guideline manual describing the process for law enforcement to integrate POST's selection guidelines and standards.</b>		
<b>Status on:</b> 2/09/09	In progress. Staff is developing a guidelines document manual in a question and answer format to support and assist agencies in implementing the selection standards for peace officers and public safety dispatchers that were approved at the January 2009 Commission meeting.		
<b>Bureau(s) Assigned:</b> S&E	<b>Staff Assigned:</b> Spilberg	<b>Completion Anticipated:</b> Jul-09	
<b>Notes and/or Strategies:</b>	The guidelines manual will be presented to the Commission for approval at its July 2009 meeting. This will allow publication of the document to coincide with the implementation of the selection standards, which are under review by the Office of Administrative Law.		





## Commission on Peace Officer Standards and Training – Strategic Plan – 2008

### GOAL A – RAISE THE BAR ON SELECTION AND TRAINING STANDARDS

<b>SPO #:</b> <b>A.6.06</b>	<b>Compare POST's selection and training standards to those in other states as articulated in the IADLEST Sourcebook for the purpose of identifying potential improvements.</b>	
<b>Status on:</b> 8/19/08	Deleted. Two issues were identified in the comparison to IADLEST standards which require further study: Continuing Professional Training (CPT) and time devoted to driver training in the basic academy. Because both of these issues are receiving detailed analysis in 4 other Strategic Plan Objectives (SPO), the Commission acted to delete this objective. CPT is being covered by SPO A.2.08, while Academy Driver Training is being covered by SPOs A.4.02, B.3.04 and B.10.08.	
<b>Bureau(s) Assigned:</b> S&E	<b>Staff Assigned:</b> Luke	<b>Completion Anticipated:</b> Completed
<b>Notes and/or Strategies:</b>	Deleted by Commission action at the July 2008 meeting.	

<b>SPO #:</b> <b>A.7.06</b>	<b>Develop a "candidate pre-assessment package" (information and assessment) for prospective peace officer candidates.</b>	
<b>Status on:</b> 11/21/08	Deleted. POST's website has been revised to include a candidate information page which provides downloadable information on self-assessment and preparation guidelines for entry into an academy.	
<b>Bureau(s) Assigned:</b> S&E	<b>Staff Assigned:</b> Singley	<b>Completion Anticipated:</b> Completed
<b>Notes and/or Strategies:</b>	Deleted by Commission action at the October 2008 meeting.	

<b>SPO #:</b> <b>A.8.08</b>	<b>Expand cognitive testing for peace officers.</b>	
<b>Status on:</b> 2/09/09	In progress. In January 2008, the Commission approved the staff recommendation to expand the POST Entry-Level Law Enforcement Test Battery (PELETB). Staff has entered into an interagency agreement with California State University, Sacramento (CSUS) to assist with data collection, analysis, and interpretation efforts for the project. Staff has met with CSUS researchers and defined the scope of the project and begun assigning responsibilities.	
<b>Bureau(s) Assigned:</b> S&E	<b>Staff Assigned:</b> Wisnia/Brown	<b>Completion Anticipated:</b> Dec-10
<b>Notes and/or Strategies:</b>	A report to the Commission will be made in July 2009.	





## Commission on Peace Officer Standards and Training – Strategic Plan – 2008

### GOAL A – RAISE THE BAR ON SELECTION AND TRAINING STANDARDS

<b>SPO #:</b> <b>A.9.08</b>	Establish basic academy report writing resources.	
<b>Status on:</b> 1/22/09	Deleted. Staff developed pre-academy report writing curriculum that presenters can voluntarily adopt.	
<b>Bureau(s) Assigned:</b> S&E	<b>Staff Assigned:</b> Wisnia	<b>Completion Anticipated:</b> Jan-09
<b>Notes and/or Strategies:</b>	Deleted by Commission action at the January 2009 meeting.	

### GOAL B – IMPROVE THE QUALITY AND IMPACT OF TRAINING

<b>SPO #:</b> <b>B.1.02</b>	Establish instructor training and certification requirements.	
<b>Status on:</b> 11/21/08	Deleted. The Instructor Development Institute has been piloted. Participation in the Academy Instructor Certificate Program was mandatory as of March 1, 2008.	
<b>Bureau(s) Assigned:</b> TPS	<b>Staff Assigned:</b> Gustafson	<b>Completion Anticipated:</b> Completed
<b>Notes and/or Strategies:</b>	Deleted by Commission action at the October 2008 meeting.	

<b>SPO #:</b> <b>B.2.08</b>	Establish a searchable database in order to share “best practices” and successes in training that emanate from nominations for the POST Excellence in Training Award.	
<b>Status on:</b> 2/09/09	In progress. It has been determined that the ideal location for a best practices data base would be within the Learning Portal, under a specific identifiable section utilizing existing functionality. As such, this program can be created without any additional expenditure. It is anticipated that implementation of this database program will commence during Spring 2009. A report containing the foregoing information was submitted to the Commission at its January 2009 meeting.	
<b>Bureau(s) Assigned:</b> TPS	<b>Staff Assigned:</b> Crume	<b>Completion Anticipated:</b> Jul-09
<b>Notes and/or Strategies:</b>		




**Commission on Peace Officer Standards and Training – Strategic Plan – 2008**
**GOAL B – IMPROVE THE QUALITY AND IMPACT OF TRAINING**

<b>SPO #:</b> <b>B.3.04</b>	<b>Provide to POST's Regional Skills Training Centers updated driver training and force options simulators and program software.</b>	
<b>Status on:</b> 2/09/09	In progress. At its January 2009 meeting, the Commission approved the plan for LEDS acquisition and placement. A LEDS Law Enforcement Specifications/Evaluation Team has met twice in a concentrated effort to accelerate the purchase process. Staff have been working closely with Department of General Services for designing the RFP and in financing the purchase. It is intended the RFP be out by early March, with the goal of awarding a contract to purchase 108 simulators before the end of the current fiscal year.	
<b>Bureau(s) Assigned:</b> TPS	<b>Staff Assigned:</b> Sorg	<b>Completion Anticipated:</b> Apr-09
<b>Notes and/or Strategies:</b>		

<b>SPO #:</b> <b>B.4.06</b>	<b>Study the feasibility of developing technology-based training tools that provide just-in-time information (i.e., tutorials, checklists, etc.) for use with technologies such as patrol car computers and Personal Digital Assistants (PDAs).</b>	
<b>Status on:</b> 2/09/09	In progress. Staff recently demonstrated the accessibility of a prototype of a decision support tool for investigators via a smart phone (e.g., iPhone). Should the development of the tool receive funding, further work would be done to optimize its availability via similar devices (e.g., Blackberry).	
<b>Bureau(s) Assigned:</b> TPS/LTRC	<b>Staff Assigned:</b> Myyra	<b>Completion Anticipated:</b> Apr-11
<b>Notes and/or Strategies:</b>		

<b>SPO #:</b> <b>B.5.06</b>	<b>Develop a Web-based training tool that would help train investigators to efficiently develop search warrants for a variety of crimes.</b>	
<b>Status on:</b> 2/09/09	In progress. The tool is in development and being refined based upon feedback from the target audience. It is scheduled for completion Spring, 2009.	
<b>Bureau(s) Assigned:</b> TPS/LTRC	<b>Staff Assigned:</b> Myyra	<b>Completion Anticipated:</b> Apr-09
<b>Notes and/or Strategies:</b>		





## Commission on Peace Officer Standards and Training – Strategic Plan – 2008

### GOAL B – IMPROVE THE QUALITY AND IMPACT OF TRAINING

<b>SPO #:</b> <b>B.6.08</b>	<b>Study the feasibility of upgrading the present POST Basic Course Certification Review process.</b>	
<b>Status on:</b> <b>1/22/09</b>	Deleted. The Basic Course Certification Review process has been enhanced by the development of a comprehensive <i>Standards-Based Academy Review Evaluation Form</i> for use by academies and evaluators, the assignment of additional POST staff to the review team, and the inclusion of trained evaluators (from academies), to perform in-depth reviews of skills training and testing. Two other additions to BCCR process are: 1) <i>Standards-Based Academy Review Manual</i> , contains definitions of the academy requirements and instructions for use of the checklist; and 2) enhanced accountability procedures (with new deadlines) to ensure academies address the identified issues of non-compliance with POST regulations. The revised process was approved at the Basic Course Consortium meeting in December 2008.	
<b>Bureau(s) Assigned:</b> BTB	<b>Staff Assigned:</b> Evans	<b>Completion Anticipated:</b> Jan-09
<b>Notes and/or Strategies:</b>	Deleted by Commission action at the January 2009 meeting.	

<b>SPO #:</b> <b>B.7.06</b>	<b>Develop a major-case management training course for managers/executives.</b>	
<b>Status on:</b> <b>11/21/08</b>	In progress. At its April 2008 meeting, the Commission authorized development of two courses: one that addresses intricacies and special needs of complex investigations, and one that emphasizes the nuances of managing investigative units and personnel. Development of the two courses may proceed concurrently under the leadership of TPS, with input as required from CLD for development and presentation of the course.	
<b>Bureau(s) Assigned:</b> TPS/CLD	<b>Staff Assigned:</b> Brewer	<b>Completion Anticipated:</b> Oct-09
<b>Notes and/or Strategies:</b>	Time Line on implementation with TPS/CLD has been established – pilot presentation scheduled for July 2009.	

<b>SPO #:</b> <b>B.8.08</b>	<b>Study the feasibility of a model high school program that can be replicated statewide.</b>	
<b>Status on:</b> <b>2/09/09</b>	Not addressed - new objective.	
<b>Bureau(s) Assigned:</b> BTB/CLD	<b>Staff Assigned:</b> Kyritsis / Ziglar	<b>Completion Anticipated:</b> Jul-09
<b>Notes and/or Strategies:</b>		




**Commission on Peace Officer Standards and Training – Strategic Plan – 2008**
**GOAL B – IMPROVE THE QUALITY AND IMPACT OF TRAINING**

<b>SPO #:</b> <b>B.9.08</b>	<b>Increase the availability of online courses and performance support tools available on the POST Learning Portal.</b>	
<b>Status on:</b> 2/09/09	In progress. A new instructor development course, "Target Your Teaching," is scheduled for release in February. Other courses scheduled for Spring release include environmental crimes, search warrants, and a search warrant tool. Courses on identity theft and gangs topics are scheduled to be released during late 2009. A BCP to fund unspecified online training is making its way through the budgeting process. Should it be successful, topics requested by the field in a recent survey (e.g. narcotics and communication) could be developed. A report to the Commission will be made in April 2009.	
<b>Bureau(s) Assigned:</b> TPS/LTRC	<b>Staff Assigned:</b> Myyra	<b>Completion Anticipated:</b> Apr-09
<b>Notes and/or Strategies:</b>	The downturn in the economy and its impact on local government, makes online training a cost-effective way for agencies to train employees without incurring costs associated with sending them away to training. With this in mind, staff from ISB and LTRC will collaborate on developing a marketing brochure that will be provided to the law enforcement and public safety training managers. The information will also be added to the POST Website.	

<b>SPO #:</b> <b>B.10.08</b>	<b>Enhance and continue the study of driver training methods and vehicle-related high-risk activities to improve training, enhance safety, and reduce preventable collisions and injuries.</b>	
<b>Status on:</b> 2/09/09	In progress. The Commission approved additional research funding at its January 2009 meeting. The Vehicle Operations Training Advisory Council (VOTAC) will meet in February to help direct new research and provide recommendations for changes/enhancements to existing training. A report to the Commission will be made in July 2009.	
<b>Bureau(s) Assigned:</b> TPS	<b>Staff Assigned:</b> Gustafson	<b>Completion Anticipated:</b> Jul-09
<b>Notes and/or Strategies:</b>		

<b>SPO #:</b> <b>B.11.08</b>	<b>Review the POST Basic Dispatch curriculum and hours.</b>	
<b>Status on:</b> 2.09/09	In progress. A PSD Job Analysis Update Meeting has been conducted and staff is preparing to update the Basic Dispatcher Course. The results of the analysis indicate that although information technologies have changed, the core job remains nearly the same.	
<b>Bureau(s) Assigned:</b> BTB/S&E	<b>Staff Assigned:</b> Shingara / Groome	<b>Completion Anticipated:</b> Jul-09
<b>Notes and/or Strategies:</b>	A report to the Commission will be made in July 2009.	





## Commission on Peace Officer Standards and Training – Strategic Plan – 2008

### GOAL B – IMPROVE THE QUALITY AND IMPACT OF TRAINING

<b>SPO #:</b> <b>B.12.08</b>	Study the feasibility of establishing instructor training requirements for public safety dispatcher instructors for the public safety dispatcher course.	
<b>Status on:</b> 2/09/09	In progress. Stakeholder meetings were held in three locations across the state and surveys were distributed to all presenters of the Public Safety Dispatcher course. Results will be shared with the Instructor Standards Advisory Council (ISAC) at its February meeting. A Public Safety Dispatcher has been added to ISAC to help inform recommendations on this objective. A report to the Commission will be made in April 2009.	
<b>Bureau(s) Assigned:</b> TPS	<b>Staff Assigned:</b> Gustafson	<b>Completion Anticipated:</b> Jul-09
<b>Notes and/or Strategies:</b>		

<b>SPO #:</b> <b>B.13.08</b>	Study the feasibility of enhancing the ongoing evaluation of POST instructors.	
<b>Status on:</b> 2/09/09	Not addressed - new objective.	
<b>Bureau(s) Assigned:</b> TDC/TPS	<b>Staff Assigned:</b>	<b>Completion Anticipated:</b>
<b>Notes and/or Strategies:</b>		

<b>SPO #:</b> <b>B.14.08</b>	Study the feasibility of expanding the use of blended learning to increase distance learning (for CPT) opportunities.	
<b>Status on:</b> 2/09/09	In progress. Staff is exploring the use of the upcoming search warrant tool as a component within the ICI core course. A report to the Commission will be made in January 2010.	
<b>Bureau(s) Assigned:</b> TPS/LTRC/CLD	<b>Staff Assigned:</b> Myyra	<b>Completion Anticipated:</b> Jan-10
<b>Notes and/or Strategies:</b>		



## Commission on Peace Officer Standards and Training – Strategic Plan – 2008

### GOAL C – ENHANCE POST'S SERVICES

<b>SPO #:</b> <b>C.1.08</b>	Develop a training evaluator program to supplement POST's efforts to maintain course quality.	
<b>Status on:</b> 2/09/09	In progress. A process is being piloted with students in the Master level of the Instructor Development Institute (IDI) to partially address the need in conjunction with students' internship/practicum requirement(s). A report to the Commission will be made in April 2009.	
<b>Bureau(s) Assigned:</b> TPS	<b>Staff Assigned:</b> Gustafson	<b>Completion Anticipated:</b> Jul-09
<b>Notes and/or Strategies:</b>		

<b>SPO #:</b> <b>C.2.06</b>	Revise the POST Administrative Manual to make the format more user-friendly for online access.	
<b>Status on:</b> 2/09/09	In progress. ISB staff will resume revision to the PAM on December 1, 2008, and are anticipating submission of at least one chapter, currently in progress, to the Commission at the July 2009 meeting. ISB staff will continue to work on the objective until completed by submitting at least one chapter per Commission meeting with the expected completion date of December 2010.	
<b>Bureau(s) Assigned:</b> ISB	<b>Staff Assigned:</b> Paoli	<b>Completion Anticipated:</b> Dec-10
<b>Notes and/or Strategies:</b>		

<b>SPO #:</b> <b>C.3.06</b>	Develop a comprehensive plan for POST's role in addressing law enforcement recruitment issues.	
<b>Status on:</b> 2/09/09	In progress. At its December 2008 meeting the LRPC decided that in light of the current fiscal crisis that a recruitment symposium would be cost-prohibitive. Surveying of agencies during December 2008 revealed that while recruitment remained a major concern of agencies the majority of agencies had no strategic plan that focused specifically on recruitment. The LRPC, as well as the Commission at its January 2009 meeting, supported development of a template that could be used by agencies to create their own recruitment strategic plan. It is anticipated a draft of a "Recruitment Strategic Planning Guide" will be completed for review by the Commission at its July 2009 meeting.	
<b>Bureau(s) Assigned:</b> TPS	<b>Staff Assigned:</b> Crume	<b>Completion Anticipated:</b> Jul-09
<b>Notes and/or Strategies:</b>		





## Commission on Peace Officer Standards and Training – Strategic Plan – 2008

### GOAL C – ENHANCE POST's SERVICES

SPO #: C.4.02	Study the feasibility of awarding college credit for select POST training courses (e.g., IDI, SBSLI, etc.).		
Status on: 2/09/09	In progress. A website/publication with college credit information has been developed and is available to the field. A report to the Commission was made in January 2009, and staff's current direction/efforts were approved. Additional research continues, and a policy on higher education is being formulated within POST. A final report and recommendations for the Commission will be made in October 2009.		
Bureau(s) Assigned: TPS	Staff Assigned: Gustafson	Completion Anticipated: Oct-09	
Notes and/or Strategies:			

SPO #: C.5.06	Develop an automated scoring process for scenario-based testing in the Basic Course using the TMAS system.		
Status on: 2/09/09	In progress. Staff is looking at alternative software companies to provide this service.		
Bureau(s) Assigned: S&E	Staff Assigned: Krueger	Completion Anticipated: Jan-10	
Notes and/or Strategies:	Several new software development vendors have emerged since the Commission approved this objective in 2006.		

SPO #: C.6.06	Develop means to heighten public awareness about successes in professionalizing California law enforcement.		
Status on: 2/09/09	In progress. With the combination of video training, the major overhaul of the POST website, and the integration of leadership, ethics, and community policing instruction into all levels of training and coursework, POST has developed a number of resources available for use by agencies toward improving the image of law enforcement and heightening awareness of dedication to professionalism. The next step is to develop a template to assist agencies in identifying opportunities for where/when/how image enhancement can occur.		
Bureau(s) Assigned: TPS	Staff Assigned: Crume	Completion Anticipated: Jul-09	
Notes and/or Strategies:			




**Commission on Peace Officer Standards and Training – Strategic Plan – 2008**
**GOAL C – ENHANCE POST'S SERVICES**

<b>SPO #:</b> <b>C.7.08</b>	Enhance communications with stakeholders about POST's service and programs.	
<b>Status on:</b> 2/09/09	Not addressed - new objective.	
<b>Bureau(s) Assigned:</b> TDC/ISB	<b>Staff Assigned:</b>	<b>Completion Anticipated:</b>
<b>Notes and/or Strategies:</b>		

<b>SPO #:</b> <b>C.8.08</b>	Streamline the payment of POST Training Reimbursement Requests (TRRs).	
<b>Status on:</b> 2/09/09	Not addressed - new objective.	
<b>Bureau(s) Assigned:</b> ASB/CSB/ISB	<b>Staff Assigned:</b> Barry	<b>Completion Anticipated:</b>
<b>Notes and/or Strategies:</b>	Waiting for EDI Course Roster project to finish (Fall 2008), then priorities will be evaluated along with a request to automate POST certificate applications.	

<b>SPO #:</b> <b>C.9.08</b>	Study the feasibility of creating an FTO/PTO-type program and workbook for new first-line supervisors.	
<b>Status on:</b> 2/09/09	Assigned; however, Objective C.10.08 needs to be completed prior to a program or workbook being developed.	
<b>Bureau(s) Assigned:</b> CLD	<b>Staff Assigned:</b> Davies	<b>Completion Anticipated:</b> Nov-09
<b>Notes and/or Strategies:</b>	Voluntary program.	



## Commission on Peace Officer Standards and Training – Strategic Plan – 2008

### GOAL C – ENHANCE POST's SERVICES

SPO #: C.10.08	<b>Conduct a comprehensive review of the Supervisory Course and curriculum.</b>	
Status on: 2/09/09	In progress. The review is underway. Several meetings have been held and sub-committees have been established with the Supervisory Course facilitators.	
Bureau(s) Assigned: CLD	Staff Assigned: Davies	Completion Anticipated: Nov-09
Notes and/or Strategies:	Review balance between practical skills and leadership enhancement.	

SPO #: C.11.08	<b>Continue to expand the development and use of technology in selection and training.</b>	
Status on: 2/09/09	In progress. A multi-bureau internal working committee has been formed to address this issue. A report to the Commission will be made in July 2009.	
Bureau(s) Assigned: S&E/TPS/BTB/CSB	Staff Assigned: Chan	Completion Anticipated:
Notes and/or Strategies:	This objective is likely to be ongoing as other selection and training areas are identified and prioritized for the application of technology.	

SPO #: C.12.08	<b>Study the feasibility of providing automated evaluation for POST's Field Training Officer/ Police Training Officer (FTO/PTO) program using the Testing Management and Assessment System (TMAS).</b>	
Status on: 2/09/09	Not addressed - new objective.	
Bureau(s) Assigned: S&E/BTB	Staff Assigned:	Completion Anticipated:
Notes and/or Strategies:	Project is on-hold pending filling a vacancy.	


**Commission on Peace Officer Standards and Training – Strategic Plan – 2008**
**GOAL C – ENHANCE POST'S SERVICES**

<b>SPO #:</b> <b>C.13.08</b>	<b>Study the feasibility of revising course certification requirements and training reimbursement plans and rates.</b>	
<b>Status on:</b> 2/09/09	In progress. A two day meeting in February involving representatives of each bureau was conducted. POST regulations were reviewed and recommendations for changes were made to revise course certification requirements.	
<b>Bureau(s) Assigned:</b> TDB	<b>Staff Assigned:</b> All Regional Consultants	<b>Completion Anticipated:</b> Jul-10
<b>Notes and/or Strategies:</b>	Staff proposes revising the language of the objective to remove the reference to "rates" of training reimbursement since this matter is reviewed and approved by the Finance Committee and the Commission when changes are recommended.	

**GOAL D – ENHANCE THE POST ORGANIZATION AND STAFF**

<b>SPO #:</b> <b>D.1.06</b>	<b>Study the feasibility of establishing a mentoring program for POST employees.</b>	
<b>Status on:</b> 2/09/09	Not addressed/assigned.	
<b>Bureau(s) Assigned:</b> ASB/Leadership Team	<b>Staff Assigned:</b>	<b>Completion Anticipated:</b>
<b>Notes and/or Strategies:</b>		

<b>SPO #:</b> <b>D.2.08</b>	<b>Establish a futures planning capability within POST.</b>	
<b>Status on:</b> 2/09/09	In progress. Leadership staff meetings have been held to discuss the scope of the project. Eleven defined sub-topics for review have been identified.	
<b>Bureau(s) Assigned:</b> CLD/Leadership Team	<b>Staff Assigned:</b>	<b>Completion Anticipated:</b> Sept-09
<b>Notes and/or Strategies:</b>		



**Commission on Peace Officer Standards and Training – Strategic Plan – 2008****GOAL D – ENHANCE THE POST ORGANIZATION AND STAFF**

<b>SPO #:</b> <b>D.3.08</b>	Enhance the use of digital media.
<b>Status on:</b> 2/09/09	Not addressed - on hold due to other higher funding priorities.
<b>Bureau(s) Assigned:</b> CSB/TPS	<b>Staff Assigned:</b>  <b>Completion Anticipated:</b> Jan-10
<b>Notes and/or Strategies:</b>	

## PRE ACADEMY REPORT WRITING TOOLS AND RESOURCES

Because report writing is often cited as one of the top reasons for academy and field training failures, many law enforcement agencies are seeking ways to assess and remediate report writing skills prior to academy admission. This document provides a brief overview of some of the pre-academy report writing strategies that are successfully preparing individuals for a career in law enforcement. Academies that have used these strategies report reductions in report-writing-related failures. They also report substantial improvements in the quality of reports produced during the academy and beyond.

### High School Explorer Programs

Several law enforcement agencies in the state (e.g., Elk Grove Sheriff, South Lake Tahoe P.D.) have partnered with local high schools to create technical training programs for high school students who express an interest in law enforcement. Through the program, students are provided with a developmentally appropriate but realistic view of a career in law enforcement. Students are often paired with officers who mentor them and involve them in various aspects of the law enforcement culture. Students participate in community outreach and represent the law enforcement agency at charitable and community events. Opportunities for honing law-enforcement-relevant skills (e.g., report writing, leadership, conflict resolution, and physical fitness) are provided. By gaining early exposure to the daily life of a law enforcement officer, students can realistically assess their interest in law enforcement and improve the skills they will need to seriously pursue a career in law enforcement.

### Community College Partnerships

Some academies partner with their local community college to provide pre-academy assessments and remedial resources for cadets who are preparing to enter the academy. For example, the Administration of Justice (AJ) Department at Las Positas College has partnered with the English Department to make it possible for the writing skills of all AJ students to be assessed and tracked over time. This makes it possible to not only identify specific weaknesses but to monitor progress as students participate in activities that improve their writing skills. Some academies require students with low English assessment scores to successfully complete a remedial English course prior to academy admission.

### Pre-Academy Writing Exercises

Some academies administer a writing assessment either just prior to or at the beginning of the academy. The results of this assessment are used to identify each cadet's specific weaknesses so that appropriate counseling and interventions can be implemented. The information from the assessment benefits both the cadet and the instructor. Cadets are able to gain specific advice on which areas need improvement and instructors are able to tailor assistance to maximize the benefits of their instruction. There are a variety of basic assessment tools available both online and through assessment vendors. Riverside County



Sheriff's Department is one academy that is using this particular intervention with some success.

### Use of Online Writing Labs (OWLS)

The internet provides many valuable tools that can be used to improve written skills. Many universities and other learning institutions have developed online writing labs that are intended to assist students in improving their written skills. Some OWLs provide opportunities to submit writing samples for evaluation by English professors while others provide games and activities that improve written skills. Especially for students who are struggling with English as a second language—OWLs can provide a safe, fun, and supportive learning environment where students can identify their deficiencies and participate in activities that will help them improve. A simple internet search will produce links to the many OWLs that are currently available for free online. Some of the more popular sites are listed below.

Online Writing Labs	
URL	Institution/Agency
<a href="http://www.american.edu/cas/lit/writingcenter.cfm">http://www.american.edu/cas/lit/writingcenter.cfm</a>	American University
<a href="http://owl.english.purdue.edu/">http://owl.english.purdue.edu/</a>	Purdue University
<a href="http://web.cwoc.ufl.edu/owl/">http://web.cwoc.ufl.edu/owl/</a>	University of Florida
<a href="http://www.lynchburg.edu/">http://www.lynchburg.edu/</a>	Lynchburg College
<a href="http://leo.stcloudstate.edu/index.html">http://leo.stcloudstate.edu/index.html</a>	St. Cloud State University
<a href="http://www.hamilton.edu/writing/index.html">http://www.hamilton.edu/writing/index.html</a>	Hamilton College
<a href="http://www.utoledo.edu/centers/writingcenter/">http://www.utoledo.edu/centers/writingcenter/</a>	University of Toledo
<a href="http://writing.colostate.edu/">http://writing.colostate.edu/</a>	Colorado State University
<a href="http://uwf.edu/writelab/">http://uwf.edu/writelab/</a>	University of West Florida
<a href="http://www.gmu.edu/departments/writingcenter/owl.html">http://www.gmu.edu/departments/writingcenter/owl.html</a>	George Mason University

### Increasing the POST T Score Used to Select Affiliated Students

Research indicates that for agencies using the POST Entry-Level Test Battery to select candidates, increasing the T score cutoff can result in significant gains. Higher T score values are associated with increased likelihood of success in the academy. Many agencies have found that by increasing their required T score they have been able to retain more recruits. Further, academy instructors report that higher T score requirements have minimized the need for remediation substantially. For example, instructors at Alameda County Sheriff's Office Academy Regional Training Center report that by increasing their T score requirement from 45 to 48, they have substantially reduced the number of recruits who fail as a result of writing deficiencies. Instructors have also reported (and POST research supports) that cadets with higher T scores perform better in all academy areas, not just report writing.

### Sample Assessments and Other Resources

Samples assessments and other report writing resources (including suggestions and resources for cadets already enrolled in the academy) are available via POST's Basic Course Informational website or by contacting Personnel Selection Consultant, Elizabeth

Wisnia in POST's Standards and Evaluation Services Bureau  
([elizabeth.wisnia@post.ca.gov](mailto:elizabeth.wisnia@post.ca.gov) or 916.227.4830).





**RESPONSE TO CONFIRMATION QUESTIONS  
COMMISSIONER BONNIE M. DUMANIS  
DISTRICT ATTORNEY OF SAN DIEGO COUNTY**

**GOALS**

In 2007 you said you would advance POST's goals by setting minimum selection and training standards and addressing the problem of recruitment and retention of peace officers, including outreach to often under-represented populations.

- 1. Are you satisfied with your progress toward meeting your goals? How do you measure progress? How have your goals changed since you were first appointed?*

I am satisfied with the progress that has been made in setting minimum selection and training standards. POST has conducted a significant amount of research in order to determine the potential impact of raising the entry level selection standards, i.e. "raising the entry-level education requirement above high school or GED (taking into consideration law enforcement recruitment issues)" and "raising the entry-level reading and writing requirements (taking into consideration law enforcement recruitment issues)."

Law enforcement executives from a number of agencies throughout the state have concluded that raising the standards would be detrimental to the recruitment levels therefore this goal was deleted from the strategic plans for POST.

Based on this conclusion, POST initiated alternative methods/resources to assist students in improving reading and writing skills. POST is also developing documents and manuals that will assist agencies in the selection process.

Regarding "outreach to often under-represented populations" as I mentioned in 2007: I believe that outreach helps reduce crime and it is also a great recruiting tool. Therefore, outreach is a high priority for the DA's office. A couple of programs that our office is involved in include:

The DA's office is involved in project LEAD (Legal Enrichment and Decision - Making). This is a 10 week law related program targeting fifth-grade students located in lower middle class and lower income areas. Deputy DAs and DA Investigators go to selected schools as a team and teach the students about the law and help them recognize the social and legal consequences of criminal behavior. They discuss topics such as bullying, shoplifting, gang involvement, truancy, drug use, and other issues with the students. This program is designed to make the students aware of the criminal justice system and to steer them away from gangs and criminal activity. By presenting positive role models in law enforcement we encourage them to choose it for a career.

Senate Rules Committee

MAY 24 2009

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I measure progress by comparing plans that have been developed with the number of plans that have been implemented.

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## **BACKGROUND**

You have served since 2003 as the San Diego district attorney.

2. *What lessons from your own experience in law enforcement are useful as you help shape statewide law enforcement standards?*

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3. *Please describe how you monitor this program and if it is operating as expected. Is it a program that can be duplicated in other counties? If so, what are the barriers to that happening?*

- a. We monitor this program through weekly Operational Procedures meetings where representatives from all involved agencies discuss any issues that come up as the program moves forward. Probation distributes a weekly statistics report of the SB 618 participants. SANDAG evaluates the program through surveys (with line staff, program designers and the participants) and comparing assessments. Furthermore, members of the Operational Procedures Committee conduct site visits and observe various steps in the process to ensure the quality of the program.
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6. *You previously said POST must be cautious about raising entry-level qualifications for peace officers. What have you done to help departments recruit qualified candidates? What steps have you taken to help departments weed out potentially subpar employees before they are hired?*

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Regarding peace officer vacancies and recruitment of qualified candidates:

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MAY 20 2009

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California Legislature  
Senate Rules Committee

Jeffrey Lundgren  
Responses  
POST

**Goals:**

***(Question 1) -- Please provide us with a brief statement of your goals. What do you hope to accomplish as a member of the commission? How will you measure your success at meeting these goals?***

As a POST Commissioner, I understand that I represent and am responsible for the standards and high level of training that over 80,000 law enforcement officers and public safety dispatchers adhere to and receive in the State of California each year. Many other states look to the California POST commission when developing like training within their jurisdiction. It is my goal to ensure that this high level of training continues; that trends be identified early and appropriate responses, in the form of training and information be developed and delivered to the law enforcement professionals in a timely and professional manner.

The POST Commission adopted its first Strategic Plan in 1997. Since that time, the plan has been revised and updated every two years. It reflects input from various law enforcement stakeholders, Commissioners and POST staff. The Commission adopts each revision and approves every update regarding the status or progress being made by POST staff working on each objective. The Strategic Plan provides direction to every member of POST staff regarding priorities, building for the future and raising the bar in law enforcement selection and training.

**Background:**

You have served since 1988 as a deputy for the Riverside County Sheriff's Department.

***(Question 2) -- What lessons from your own experience in law enforcement are useful as you help shape statewide law enforcement standards?***

As a Riverside County Deputy Sheriff, I have served in many different assignments. As such I have received over 3300 hours of specialized law enforcement training. I have developed expertise in several different subject matters and have taught POST Certified classes to others. Based on my training and experiences, I understand the importance of quality training. California is renowned for the quality of the training provided to its law enforcement officers. As a Commissioner on the Commission on Peace Officers Standards and Training, I will ensure the continuance of quality and relevant training to the fine men and women in the law enforcement profession.

**POST Background:**

The Commission on Peace Officer Standards and Training (POST) was established by the Legislature in 1959 to set minimum selection and training standards for California law enforcement. It consists of 15 members appointed by

**Senate Rules Committee**

MAY 04 2009

**Appointments**

California Legislature  
Senate Rules Committee

the Governor plus the Attorney General (a total of 16 members). The POST organization consists of 120 staff members and functions under the direction of an executive director appointed by the commission. POST coordinates a comprehensive training program with hundreds of certified courses.

One major issue is recruitment of new officers. "For several years, California law enforcement professionals and POST academy directors have expressed concerns for the difficulties they are having in recruiting qualified police officer candidates. POST provides various recruitment related assistance," according to the POST Website. In 2007 the Contra Costa Times reported that there were 15,000 vacancies among the 95,000 budgeted peace officer jobs in California.

*(Question 3) -- Please spell out the role the commission is playing to help departments recruit qualified candidates. What impact has the nation's slowing economy had on recruitment of officers? Do you see a wider role for your agency in publicizing the need for police personnel?*

Since 1989, POST has conducted five recruitment symposia. Each involved presentations by subject matter experts about recruitment and retention issues. The symposia were attended by several hundred representatives of law enforcement agencies.

POST has developed a comprehensive plan for its role in addressing law enforcement recruitment issues. POST conducted considerable research into the issues surrounding recruitment and retention of peace officers. The result of the research was the development of two publications, Peace Officer Recruitment and Retention: Best Practices, and Recruitment and Retention Best Practices Update. Both documents provide sound methods for improving the efforts of law enforcement agencies to successfully recruit and retain peace officers.

In 2007, POST completed a comprehensive survey of law enforcement agency executives regarding recruitment and retention. The survey revealed that law enforcement agencies are experiencing a statewide crisis in recruiting qualified candidates to fill vacancies within their agencies. The study cited candidate pool competition, reduced interest in becoming peace officers, low wages and achieving diversity as recruiting challenges.

In response to the study, POST has embarked upon a marketing campaign, and has arranged for regional testing and recruiter training. The POST Website has been enhanced to reflect career opportunities and links to agencies. They have developed the best practices on recruitment, and pre-academy preparation materials for candidates. In each instance, except the marketing campaign, POST has provided the resources to law enforcement agencies to assist them in their recruitment efforts. POST will soon publish a "Recruitment Strategic Planning Guide." The document provides an overview of



California Legislature  
Senate Rules Committee

recruitment strategic planning, a Recruitment Strategic Planning Checklist, and an example of a recruitment strategic plan for law enforcement agencies.

***In reference to the question: What impact has the nation's slowing economy had on recruitment of officers?***

We are just starting to see the impact on law enforcement agencies. As revenues decline and budgets become strained, many cities and counties will balance their budgets by reducing staffing levels, and decreasing compensation and benefits. As a result, we may see reductions to those candidates who would otherwise qualify, thus reducing the recruitment pools even more. Because of the time associated with finding qualified candidates and training recruits, we will not know or understand the impact of this slowing economy for some time to come.

POST is providing sufficient resources to the law enforcement community, as it relates to recruitment at this time. As the economy improves, and the need for additional law enforcement personnel increases, POST may consider other options as they deem necessary and budgets allow.

***(Question 4)-- The Commission has considered raising entry-level qualifications to becoming an officer. What is the status of these discussions? If it is done, how would the change affect recruitment?***

Over the past several years, POST has developed a strategic plan which includes many "objective" areas to address different topics. The POST Strategic Plan includes four objectives that address this subject:

- A.6.05- Study the feasibility of raising the entry-level education requirement above high school or GED.
- A.7.05- Study the feasibility of raising the entry-level reading and writing requirement.
- A.8.05- Study the feasibility of requiring reading and writing testing for entry into the basic academy.
- A.9.08 – Establish Basic Academy Report Writing Resources.

The research involving each of these objectives determined the potential impact of raising entry-level selection standards. The conclusion in each instance was that the elevation of the selection standards would be detrimental to recruitment efforts of law enforcement. Upon recommendation by POST staff, the Commission deleted each of the strategic plans.

Following an extensive study, the Commission found that resistance from the law enforcement community exists to imposing a report writing standard, but that strong support exists for a pre-academy report writing curriculum that presenters could

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voluntarily adopt. Following Commission direction, staff developed and made available such resources and objective A.9.08 was deleted as "completed" by Commission action in January 2009.

***(Question 5)-- Are any efforts underway to diversify law enforcement agencies? If so, please describe.***

POST has no direct role in the hiring decisions made by law enforcement agencies. However, considerable interest was identified in work performed by POST to improve recruitment efforts within the law enforcement community. For many law enforcement agencies there continues to be both need and interest in ensuring that agencies reflect the diversity of the communities served. With this in mind, POST staff worked with subject matter experts and members of the law enforcement and human resource professions to develop best practices that agencies can use in addressing the need to increase gender and ethnic diversity within law enforcement agencies.

One of the publications developed by POST to assist agencies in their efforts to increase diversity in the workforce is found in, "Peace Officer Recruitment and Retention: Best Practices." It contains several sections which address ways to improve diversity in the recruiting process. They include: Selecting Your Agency Recruiter, Creating the Future Recruiting Pool, Out of State Recruitment and Background Investigations, Identifying Target Audiences, Job Fairs and Special Events and Bilingual Pay. Another publication developed to increase diversity in the workplace is found in, "Recruitment and Retention Best Practices Update." It contains an entire chapter dedicated to Diversity Recruitment and Developing External Partnerships to Improve Diversity Recruitment.

POST will soon publish the "Recruitment Strategic Planning Guide." This document will help law enforcement agencies develop a recruitment strategic plan to hire peace officers and dispatchers. Diversity recruitment is included in the recruitment strategic plan.

***Employment:***

The commission's strategic goals state, "The costs associated with subpar employee productivity, turnover, and counter-productive behavior are substantial, both from a monetary and public safety standpoint."

***(Question 6) -- What steps have you taken to help departments weed out potentially subpar employees before they are hired? What sort of training is available on this topic?***



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Senate Rules Committee

POST is responsible for conducting statewide research that results in selection and training standards for entry-level peace officers and public safety dispatchers. This responsibility includes the development of selection tests used by California law enforcement agencies to identify qualified peace officer and dispatcher applicants, and the development and maintenance of all written and performance tests used to assess the knowledge and skill levels of peace officer trainees in California's basic training academies.

This year, the entire set of POST selection standards for both peace officers and public safety dispatchers was revised. The procedures outlined in the new standards are designed to ensure that the most qualified candidates are selected. The procedures provide the guidance and resources needed to ensure that agencies select candidates who are capable of learning and performing the essential job functions and responsibilities of a peace officer.

POST staff works closely with local law enforcement agencies to provide these resources. This collaboration helps ensure that the best possible candidates are selected to fill California's law enforcement ranks, and assures that all standards and procedures are job-related and legally defensible, as required by state and federal employment laws. Additionally, POST staff works closely with all basic training academies in California to ensure that their programs are in compliance with POST requirements, that their instructors are well prepared and that their students master the knowledge and skills required of peace officers.

**Training:**

In a July 18, 2008, memorandum, POST Executive Director Paul Cappitelli said that while POST's budget has remained relatively flat, the number of trainees for whom agencies could seek reimbursement climbed from 54,000 in 2003 to more than 68,000 in 2007, a 25.9 percent jump. "With no commensurate increase in revenues, this trend cannot be sustained," Cappitelli said.

***(Question 7) -- How have recent budget cuts impacted your training programs? Are you encouraging agencies to utilize more online courses?***

During these challenging economic times, POST is well aware of the limitations many cities and counties have placed on staff travel and training. This is reflected in reduced numbers of trainees being able to travel to a training site to receive training. POST has reacted to this reality by ensuring that its staff keeps the law enforcement community informed about the availability of online training.

Other administrative issues include resources. It is becoming apparent that in order to meet the demand for more training and to keep the promise implied by the establishment of the Learning Portal, decisions will need to be made regarding a



California Legislature  
Senate Rules Committee

consistent funding source, as well as sufficient personnel and resources in the future. However, despite limited staff (one engineer, two designers, and a supervisor) and limited funding, staff has managed to produce and support several successful training programs. Currently, the Portal hosts instructor and law enforcement resources, discussion groups, and training courses.

***(Question 8) -- One of your goals has been to develop a distance learning plan for delivery of Web-based training. What progress have you made toward this goal?***

POST has set high standards for online training. This push for quality learning experiences for the student has paid off. Comments by users have been overwhelmingly positive about the courses, and they would like to see more training available via the Learning Portal.

Currently, the Portal hosts seven online courses and one video course as well as over 90 resources. There are over 25,000 registered users who have recorded over 28,000 course completions resulting in over 109,500 CPT hours awarded.

POST has five courses in development: Identity Theft, Gangs, Search Warrant Fundamentals, Environmental Crimes, and Instructor Development – Learning Outcomes. In addition, a search warrant writing tool is in development which will help novices develop search warrants. POST is also working to develop a tool to help investigators with foundational investigation skills.

***(Question 9) -- Some information on the POST Web site was last updated in 2007. Given an expected increase in Web use, what plans do you have to regularly update the Web site?***

Two new Budget Change Proposals (BCPs) for Fiscal Year 2009/2010 are in the State Budget. One BCP provides funding (\$425,000/year) for course and performance support tool development for two years. The second BCP authorizes an additional Instructional Systems Engineer position which is needed to support the Portal, courses, and tools. POST was successful in securing authorization for these critical items because of the current economic situation. These items will have a direct impact on reduced local law enforcement travel and training budgets.

**SHERIFF LAURIE SMITH  
SANTA CLARA COUNTY OFFICE OF THE SHERIFF  
RESPONSES TO SENATE RULES COMMITTEE QUESTIONS – 2009**

**Goals**

As a member of the Commission on Peace Officer Standards and Training, my goal is to continue to advance the objectives of the Peace Officer Standards and Training (POST) Strategic Plan and follow POST's mission to continually enhance the professionalism of California law enforcement. In addition to having the necessary experience, I also have the passion and dedication to help raise the bar on POST selection and training standards, improve the quality and impact of training, and provide insight to enhance POST's services.

**Question 1:** *Are you satisfied with your progress toward meeting your goals? How do you measure success? How have your goals changed since you were first appointed?*

I am satisfied with my progress in meeting my goals and am confident that I can continue to meet my goals in my role as a member of the Commission on Peace Officer Standards and Training.

Some examples of how I have facilitated the advancement of specific objectives identified within the POST Strategic Plan are centered on being a certified provider for a POST Basic Academy Course. My staff continually strives to enhance the quality and impact of training to new law enforcement recruits as well as in-service law enforcement professionals and work closely with other academies to ensure standardization is maintained throughout the State. My staff recently created a County Wide Crisis Intervention Training (CIT) course as a result of recognizing the benefit this training will have on law enforcement officers as well as the community. Due to its demonstrated success, we are currently exploring the possibility of incorporating an abbreviated element of this training into the Basic Academy Course. In addition, my Basic Academy Director participated in a POST feasibility study formulated to upgrade the current Basic Academy Course Certification process. Most recently I identified the need of an additional Regional Skills Training Center in Santa Clara County to satisfy a progressive demand for local law enforcement agencies requiring the mandated driver training and force options training. These are local examples of how I have helped execute the objectives and standards identified by the Commission on Peace Officer Standards and Training. Success can be measured by the number of individuals that graduate from the Santa Clara County Justice Training Center Academy and continue to improve and successfully complete the FTO program.

**Senate Rules Committee**

MAY 21 2009

**Appointments**



**Question 2: *How does your own experience in law enforcement shape your priorities as you determine statewide law enforcement standards?***

As the Sheriff of Santa Clara County with over 35 years of law enforcement experience, I have a unique global perspective of what is needed to establish and maintain necessary standards that will facilitate progressive growth of the law enforcement profession throughout the State.

The knowledge and experience I have gained leading my organization, combined with my participation on the State Sheriff's Association and local Police Chief's Association, has afforded me numerous opportunities to discuss law enforcement trends and philosophies with Sheriff's and Police Chiefs throughout the State. Through these relationships I have established within the law enforcement community, I have developed a foundational understanding of what leads to organizational and professional failure and success. This understanding provides me with the necessary perspective to identify and prioritize critical standards that will enhance the law enforcement profession today and in the future.

My experience has also been enhanced by my appointment as a Commissioner of the Commission on Peace Office Standards and Training (POST) for two separate terms. One of my goals as a POST Commissioner has been to advance the objectives set forth in the POST Strategic Plan. I recognize the importance of the Strategic Plan and have not only contributed to its development, but also helped ensure the objectives are attained.

## **Recruitment**

**Question 3: *What is the status of any initiatives the commission has taken to steer youth toward careers in law enforcement? What outcomes, if any, have you experienced so far?***

**Question 6: *What role, if any, should the commission play in working with high schools or middles (sic) schools to address the need for workforce development in the law enforcement sector?***

***The information that addresses Question 3 and Question 6 is related and has been consolidated below:***

In the past decade, California's law enforcement's recruitment efforts have faced many challenges including, but not limited to intense interagency competition at the state and federal level and competition from other professions such as nursing, teaching, firefighters and the military. And, because existing law specifies stringent requirements to be a peace officer, it is not uncommon for an agency to process 1000 applicants only to harvest 100 candidates after investing significant time and expense in the form of recruitment efforts, psychological testing and background investigations. A term commonly expressed by law enforcement officials is "the dwindling pool of candidates". Continually increasing efforts to identify candidates in a dwindling pool fails to recognize that efforts have to be made to improve the stream of candidates into the pool. Objective B.8.08 of POST's Strategic Plan directs staff to "*study the feasibility of a model high school program that can be replicated statewide.*" As a result, considerable outreach



efforts to the Department of Education were made in 2008 to incorporate statewide standardized components of basic peace officer training into high school programs, Grades 10-12. Meetings have been held to identify curriculum and testing that address core issues in police service that can be integrated into these programs; including, but not limited to report writing, ethics and professionalism, first aid, criminal law, physical conditioning and the criminal justice system. Integrating standardized components in a high school curriculum will facilitate the transition from high school, to junior college and ultimately into an academy to begin a career in law enforcement. By accomplishing this, an increase in qualified peace officer candidates is expected to help law enforcement recruitment. A collateral benefit will be a reduction in the dropout rate in schools participating in this program. Strategies are presently being developed, in conjunction with educators and program subject matter resources to systematically integrate this curriculum into the California private and public schools systems. The commission regularly receives status reports on the progress of this objective.

**Question 4:** *What have you done to help departments recruit qualified candidates? What steps have you taken to help departments weed out potentially subpar employees before they are hired?*

**Question 5:** *What impact has the nation's slowing economy had on recruitment of officers? Do you see a wider role for the commission in publicizing the need for qualified police personnel?*

*The information that addresses Question 4 and Question 5 is related and has been consolidated below:*

The Santa Clara County Sheriff's Office has two areas in our hiring process that assist in eliminating potentially sub-par employees before they are hired: (1) the profile of the model employee we are looking for and (2) the extensive screening process.

The Profile: In the initial phase, there is a focus on candidates who either possess some level of higher education or some type of military service, (entry level Deputy Sheriff currently requires at least 60 college semester units). Over the years, it has been determined that candidates with some level of either educational or military experience are more focused and have better developed value/ethical profiles. It has also been determined that it is irrelevant what the subject matter of the educational experience is, as long as the classes were taken and completed with some level of competency.

There is an attempt to identify applicants that have the ability to multi-task at some level. This experience is often difficult to pinpoint in the applicants' background. However, once identified, it can be assumed that the applicant will have a better chance with manipulative skill sets like calmly talking on the radio while driving a car at high speeds.

The Sheriff's Office seeks applicants that have demonstrated their ability to calmly handle major life issues. This would include events like marriage, divorce, relationships, finding a job, keeping jobs, etc. Although this is sometimes referred to as maturity, it is

believed that it is more likely the ability to confront and handle one's personal problems effectively. It is unlikely that a Deputy Sheriff could competently handle another individual's issues while in the field if he/she has not yet demonstrated an inherent ability to handle his/her own personal obstacles.

**The Process:** The Santa Clara County Sheriff's Office selection process begins like most with an entry level written test and a physical agility. After passing these tests, applicants are screened for high-risk behavior through the use of a personal history questionnaire (PHQ). The PHQ is basically a written inquiry into several critical areas of the applicants' background. The answers are placed into a computer and screened for "areas of concern" relating to impulse behaviors, ethical behaviors, and anger management. If applicants score high in any one of these areas they are either eliminated or called in for a one-on-one interview with our staff.

Once the PHQ process has been completed, all applicants are interviewed/screened to ensure they meet the agency profile, or have the ability to meet the agency profile in the future. Those individuals determined to not possess the agency profile, or possess the potential to meet the agency profile, are eliminated from the selection process at this point.

Once this initial interview has been completed, a background investigator completes an extensive three-hour interview in an effort to discover any derogatory information that would keep the applicant from being employed by our agency. The results of this interview are documented and sent to our internal staff for review.

Since 1989 POST has conducted five recruitment symposiums. The two largest ones took place in 2001 and in 2005. Each involved presentations by subject matter experts about recruitment and retention issues. Several hundred representatives of law enforcement agencies attended these symposia. POST also provided training with an emphasis on the needs of executives and recruiters. Strategic Plan objective C.3.06 -- *Develop a comprehensive plan for POST's role in addressing law enforcement recruitment issues*, has guided the efforts of POST staff to address recruitment issues since 2006. At the 2008 Strategic Plan Stakeholders meeting, it was recommended that public safety dispatchers be included in the recruitment plan.

In 2001 and again in 2006, POST conducted considerable research into the issues surrounding recruitment and retention of peace officers. The result of the research was the development of two publications, *Peace Officer Recruitment and Retention: Best Practices – July 2001* (<http://www.post.ca.gov/selection/recruit.pdf>) and *Recruitment and Retention Best Practices Update – April 2006* (<http://www.post.ca.gov/training/bestpractices/RecruitmentBestPrac.pdf>).

Both documents provide sound methods for improving the efforts of law enforcement agencies to successfully recruit and retain peace officers.



**Question 7:** *You noted in your 2007 letter that the commission directed staff to study the feasibility of establishing a statewide writing standard for exit from the basic course for peace officers. What is the status of that study?*

Following extensive study, staff reported to the Commission in January 2008 that substantial resistance exists to the imposition of an academy report writing exit standard. However, strong support exists for the development of a pre-academy report writing curriculum and test that presenters could voluntarily adopt. Accordingly, a curriculum resource document was developed and approved by the Commission in January 2009. POST staff is currently carrying out a study to develop a valid basic course report writing exit test that academies can adopt on a voluntary basis. The project is on schedule to be completed in the spring of 2010.

**Question 8:** *What is the status of the study you cited on the viability of administering a pre-employment personality assessment to peace officer candidates?*

Strategic Objective A.1 calls for POST to “Establish personality assessment for entry-level selection.” Pursuant to this objective, in 2004, the Commission initiated a two-year project to thoroughly evaluate the existing job relatedness evidence and other pertinent research findings for tests of general personality characteristics (conscientiousness, extraversion, etc.) that could be administered prior to a conditional job offer (i.e., pre-offer personality tests). The research was completed in 2007 and POST staff began the development of a resource document for agencies wishing to pursue pre-offer personality testing.

Concurrent with development of the guide, staff developed a web-based application for test publishers to provide information about specific tests. It is expected that the information provided by the test publishers will be available to POST agencies as part of a centralized database.

The intent of the resource guide and web application is to assist agencies in making decisions about the use of pre-offer personality tests based on local needs and resources. Agencies that utilize such testing are encouraged to work collaboratively with POST to evaluate how well the tests work; however, no attempt will be made to influence agencies decision making process.

The estimated date for completion of the resource document and release of the associated web-based application is December, 2009.

**Question 9:** *Please describe and discuss any efforts underway to diversify law enforcement agencies.*

POST has no direct role in the hiring decisions made by law enforcement agencies. However, considerable interest was identified in work performed by POST to improve recruitment efforts within the law enforcement community. For many law enforcement



agencies there continues to be both need and interest in ensuring that agencies reflect the diversity of the communities served. This is illustrated in surveys conducted by POST staff in 2000, 2005 and 2007. With this in mind, staff worked with subject matter experts and law enforcement and human resource professionals to develop best practices that agencies can use in addressing the need to increase gender and ethnic diversity within law enforcement agencies.

One of the publications developed by POST to assist agencies in their efforts to increase diversity in the workforce is found in *Peace Officer Recruitment and Retention: Best Practices – July 2001* (<http://www.post.ca.gov/selection/recruit.pdf>). It contains several sections on ways to improve diversity in the recruiting process. They include: *Selecting Your Agency Recruiter, Creating the Future Recruiting Pool, Out of State Recruitment and Background Investigations, Identifying Target Audiences, Job Fairs and Special Events and Bilingual Pay*.

Another publication developed by POST to assist agencies in their efforts to increase diversity in the workplace is found in *Recruitment and Retention Best Practices Update April 2006* (<http://www.post.ca.gov/training/bestpractices/RecruitmentBestPrac.pdf>). It contains an entire chapter dedicated to *Diversity Recruitment* (Chapter 3) and *Developing External Partnership to Improve Diversity Recruitment* (Chapter 8).

POST will soon publish the *Recruitment Strategic Planning Guide*. This document will help law enforcement agencies develop a recruitment strategic plan to hire peace officers and dispatchers.

Diversity recruitment is included in the recruitment strategic plan example provided in the document.

## **Information Technology:**

**Question 10:** *Given current budget restraints, how have you been able to maintain or improve your online training? Are you encouraging agencies to utilize more online courses?*

POST has long been a leader in the development of technology-based training for law enforcement. In 1991, ACR 58 established the POST Learning Technology Resource Center (LTRC), which spearheaded the development of computer-based training programs, first on interactive videodisc and then on CD-ROM. LTRC is now developing Internet-based training programs and performance tools for California law enforcement accessed via the POST Learning Portal.

Despite limited staff (1 engineer, two designers, and a supervisor) and limited funding, staff has managed to produce and support several successful training programs. Currently, the Portal hosts instructor and law enforcement resources, discussion groups, and training courses.

**Question 11: *What plan do you have to regularly update your web site? What do you believe is POST's responsibility to communicate with the public through its web site?***

The Sheriff's Office recently updated its website. Overall, POST's public website ([www.post.ca.gov](http://www.post.ca.gov)) is continually updated; however, some sections are static and rarely change. Various sections such as the Administrative Progress Report, the Course Catalog, and the California POST Training Network are updated monthly. The Law Enforcement Job Opportunities, Bulletins, and Regulatory Notices are posted bi-monthly and/or on an as-needed basis. The "What's New" section on the POST homepage highlights the new/updated program information.

POST believes in transparency in state government and ensures that all public information is readily accessible via [www.post.ca.gov](http://www.post.ca.gov). As an agency of state government, POST has complied with the CA.gov web site design, accessibility, and usability standards and best practices. All new information on the website is being developed in the CA.gov new "look and feel," and POST is working toward total conversion in the upcoming year.

Since the POST web site has many types of visitors, the POST homepage was designed to help different types of visitors locate the information they need. Information for potential applicants, investigators, dispatchers, and peace officers is readily accessible from the homepage. The CA.gov requirements include accessibility for persons with disabilities.

Most recently, Really Simple Syndication (RSS) feeds on several sections on the web site were implemented to allow visitors to keep themselves informed on the latest POST news and updates with minimal effort. POST intends to add additional web features which will enable visitors to find needed information faster.

POST staff continues to keep abreast of new, emerging technologies to further enhance POST's online presence.

THE UNIVERSITY OF CHICAGO  
DIVISION OF THE PHYSICAL SCIENCES  
DEPARTMENT OF CHEMISTRY  
530 SOUTH EAST ASIAN AVENUE  
CHICAGO, ILLINOIS 60607-7070  
TEL: (773) 835-3121 FAX: (773) 835-3122  
WWW: WWW.CHEM.UCHICAGO.EDU  
E-MAIL: CHEM@UCHICAGO.EDU

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1,2-DC is a non-flammable, non-toxic liquid. It is stable under normal conditions of use. It is not reactive with most organic compounds. It is a good solvent for many organic compounds, particularly those that are non-polar or weakly polar. It is used in a wide variety of chemical reactions, including the synthesis of many organic compounds. It is also used as a feedstock for the production of vinyl chloride, which is used in the manufacture of plastics.

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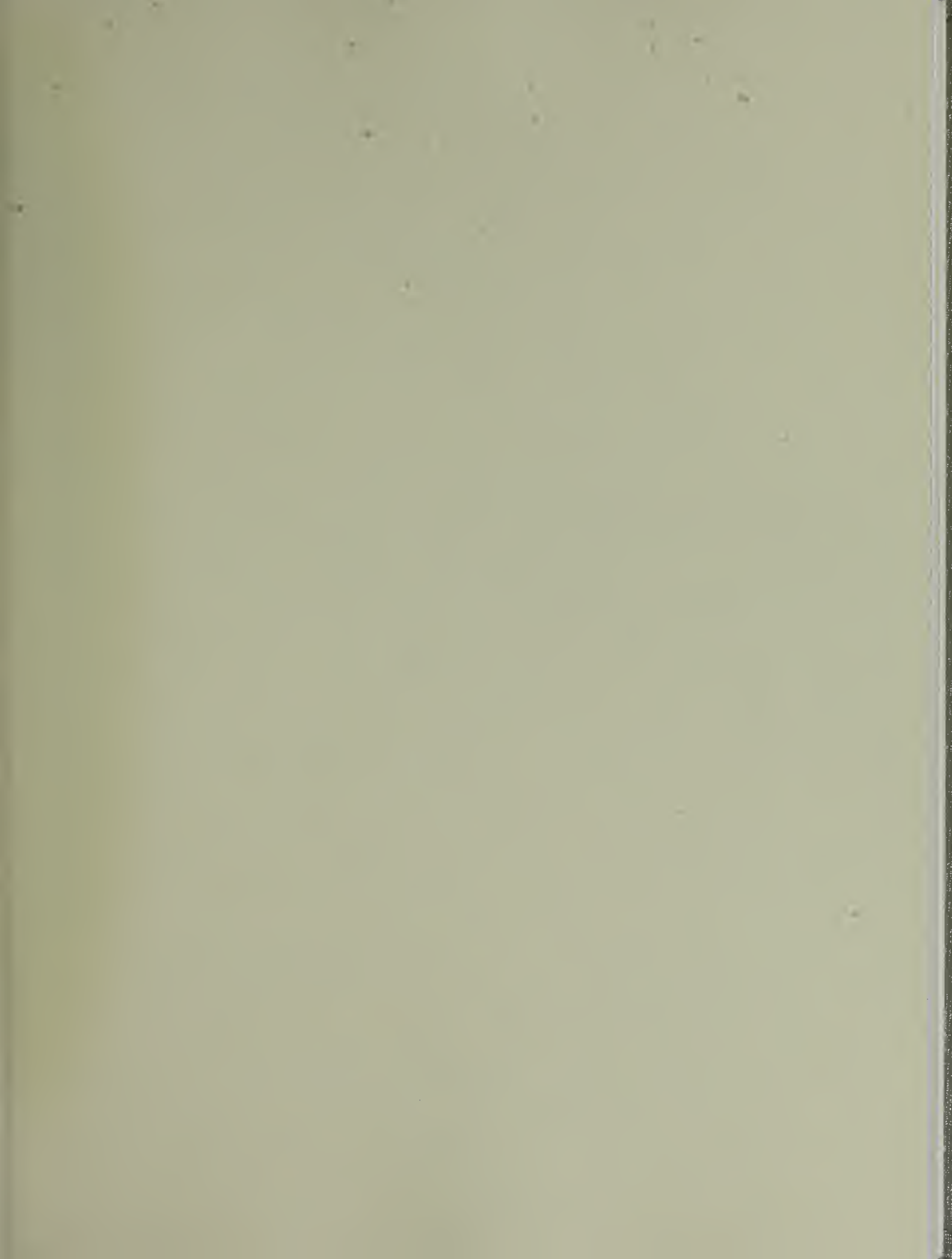
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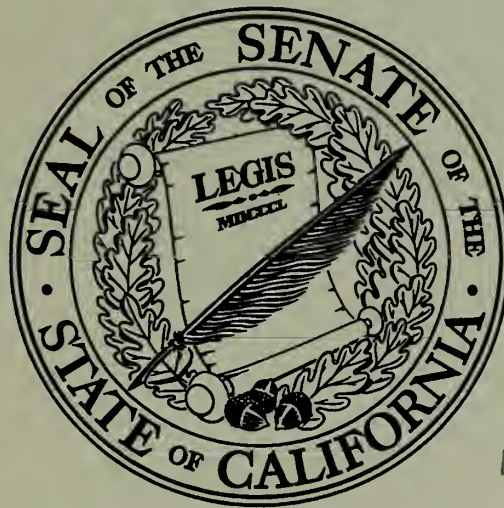
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WEDNESDAY, JUNE 10, 2009

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Certified Shorthand Reporter  
CSR No 6713

ALSO PRESENT (cont.)

HADI MAKARECHIAN, Member, The Regents of the  
University of California.  
WILLIAM HAUCK, Member, Trustees of the California  
State University  
HENRY MENDOZA, Member, Trustees of the California  
State University.

--oOo--

APPEARANCES

MEMBERS PRESENT

SENATOR DARRELL STEINBERG, Chair

SENATOR GIL CEDILLO

SENATOR SAMUEL AANESTAD

SENATOR ROBERT DUTTON

SENATOR JENNY OROPEZA

STAFF PRESENT

GREG SCHMIDT, Executive Officer

JANE LEONARD BROWN, Committee Assistant

NETTIE SABELHAUS, Appointments Consultant

DAN SAVAGE, Assistant to SENATOR CEDILLO

JULIE NYSTROM, Assistant to SENATOR AANESTAD

CHRIS BURNS, Assistant to SENATOR DUTTON

BRENDAN HUGHES, Assistant to SENATOR OROPEZA

ALSO PRESENT

GEOFFREY L. BAUM, Member, California Community  
Colleges Board of Governors

SCOTT B. HIMELSTEIN, Member, California Community  
Colleges Board of Governors

LANCE T. IZUMI, Member, California Community  
Colleges Board of Governors

GARY E. REED, Member, California Community  
Colleges Board of Governors

INDEX

Page

1	Proceedings .....	1
2	INTRODUCTION OF GARY E. REED BY SENATOR ROY ASHBURN .....	3
3	INTRODUCTION OF GEOFFREY L. BAUM BY SENATOR CAROL LIU .....	4
4	INTRODUCTION OF SCOTT B. HIMELSTEIN BY SENATOR MARK WYLAND .....	5
5	INTRODUCTION OF HENRY MENDOZA BY SENATOR RON CALDERON .....	7
6	INTRODUCTION OF HADI MAKARECHIAN BY SENATOR TOM HARMAN .....	8
7	INTRODUCTION OF LANCE IZUMI BY SENATOR JACK SCOTT .....	10
8	Opening Statements by Governor's Appointees:	
9	GEOFFREY L. BAUM, Member, California Community Colleges Board of Governors .....	16
10	SCOTT B. HIMELSTEIN, Member, California Community Colleges Board of Governors .....	15
11	LANCE T. IZUMI, Member, California Community Colleges Board of Governors .....	14
12	GARY E. REED, Member, California Community Colleges Board of Governors .....	13
13	Question to All Appointees by CHAIRMAN STEINBERG re:	
14	SB 70 and relationship between K-12 system and community college system .....	21

iii

iv

1	Questions to All Appointees by SENATOR AANESTAD re:	
2	Fees .....	26
3	K-12 funding going to community colleges .....	29
5	Questions to All Appointees by SENATOR OROPEZA re:	
7	Role of community colleges .....	32
8	Goal of veterans committee .....	33
9	Listing of community colleges re career goals for incoming students .....	34
12	Questions to All Appointees by SENATOR CEDILLO re:	
13	Actions by the State to enable community colleges to do their jobs .....	37
15	Change in funding .....	39
16	Result of less funding .....	40
17	Actions by legislature to facilitate greater interface between community colleges, CSU system and U.C. system .....	42
20	--oOo--	
21	Opening Statements by Governor's Appointees:	
22	WILLIAM HAUCK, Member, Trustees of the California State University .....	53
23	HENRY MENDOZA, Member, Trustees of the California State University .....	49
25		

v

1	Opening Statement by Governor's Appointee:	
2	HADI MAKARECHIAN, Member, The Regents of the University of California .....	82
4	Questions by CHAIRMAN STEINBERG re:	
5	University of California being more collaborative with other systems .....	84
7	Executive compensation .....	85
8	Ramifications with respect to limiting compensation .....	89
10	Necessity for exorbitant salaries .....	91
11	Question by SENATOR CEDILLO re:	
13	Danger to system if efforts are not supported .....	87
15	Questions by SENATOR OROPEZA re:	
16	Blue and Gold plan/Access for students of lesser means .....	94
17	New approaches .....	95
19	--oOo--	
22	Proceedings Adjourned .....	97
23	Certificate of Reporter .....	98
24	APPENDIX (Written Responses of Appointees) ..	99
25		

vii

1	Questions to Both Appointees by CHAIRMAN STEINBERG re:	
3	Relationship between high-school dropout rate and the CSU system/ CSU system's replication of U.C.'s A to G system .....	49
5	Alternatives to A to G course for admissions .....	54
7	Integration of rigorous curriculum with pathways .....	56
9	Questions to Both Appointees by SENATOR OROPEZA re:	
10	Role of board member .....	60
11	Title IX .....	61
12	Executive compensation .....	65
13	Hiring of contract lobbyists .....	69
15	Question to Both Appointees by SENATOR CEDILLO re:	
16	Collaboration between community colleges, CSU and U.C. system ....	73
19	Question to Mr. Hauck by SENATOR AANESTAD re:	
20	Length of time to graduation from CSU system .....	77
22	<u>Witness in Support of HENRY MENDOZA:</u>	
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vi

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5	dealing with the issues that you could probably guess we	
6	were talking -- we should be talking about, so I	
7	apologize for holding everybody up.	
8	Let's begin this afternoon, though, by calling	
9	the roll.	
10	MS. BROWN: Senator Cedillo.	
11	Dutton.	
12	Oropeza.	
13	SENATOR OROPEZA: Here.	
14	MS. BROWN: Oropeza here.	
15	Aanestad.	
16	SENATOR AANESTAD: Here.	
17	MS. BROWN: Aanestad here.	
18	Steinberg.	
19	CHAIRMAN STEINBERG: Here.	
20	MS. BROWN: Steinberg here.	
21	CHAIRMAN STEINBERG: Let me begin on a very sad	
22	note. The Rules Committee was sorry to learn of the	
23	death of Tiffany Rystrom yesterday. Tiffany was the	
24	chair of the Public Employment Relations Board, and she	
25	was going to be up for confirmation here over the next	

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1 several months. And we want to send our condolences to  
2 Ms. Rystrom's family and friends, and express the sorrow  
3 about the loss not only to her loved ones but to public  
4 service of the State of California as well. Thank you.

5 Maybe we could -- I know it's not tradition,  
6 but a moment of silence. Could we do that, please.  
7 Thank you.

8 (Pause.)

9 CHAIRMAN STEINBERG: Thank you. All right.  
10 Let us begin. I know we have a number of Members here,  
11 and former Members. We will accommodate the Members  
12 here rather quickly, but we need to dispense first with  
13 a couple items of business.

14 (Discussion of the record re file items  
15 one and two.)

16 CHAIRMAN STEINBERG: All right. Now we move to  
17 the governor's appointments appearing today. Let me  
18 just say at the outset I'm very pleased to have all of  
19 our higher-education appointees pending confirmation  
20 with us today. We've been spending a lot of weeks and  
21 time on corrections, parole, and it's, frankly, nice to  
22 talk about education.

23 Not only are the positions that are up for  
24 confirmation today significant, but the terms they fill  
25 are some of the longest terms for any appointed

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1 positions in state government. A member of the  
2 Community College Board of Governors has a six-year  
3 term; a CSU trustee has an eight-year term; and a  
4 U.C. regent has, in fact, a 12-year term. So these are  
5 appointments that, in our view, require some special  
6 consideration, because they do in fact reach so far  
7 into the future.

8 So we want to have a discussion with all of you  
9 today about not only your view of your role, but your  
10 view of higher education in California, and how we  
11 address the economic realities of our time at the same  
12 time we prepare the educated and trained workforce of  
13 the future.

14 So let us begin here. Now, I want to  
15 accommodate Senator Ashburn, Senator Liu, and  
16 Senator Wyland, who I'm sure have other busy schedules.  
17 The order that we're going to take up is, first, the  
18 community college trustees; but if any of you are here  
19 for anybody else, I will allow you to come up now and  
20 introduce your member, but then we'll take up the member  
21 in a little bit.

22 So Senators.

23 SENATOR ASHBURN: Mr. President, Senators, I'm  
24 very happy to be here today to introduce to you  
25 Gary Reed, who currently serves as a member of the board

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1 of governors of the community college district,  
2 community colleges of California. He is here for  
3 reconfirmation.

4 Gary Reed is eminently qualified for this  
5 position, having previously served as a member of the  
6 teacher credentialing commission for the State of  
7 California. He is a former high-school math teacher,  
8 and so intimately connected with young people and  
9 education, has a deep and abiding commitment to our  
10 young people. He's a former Tulare County supervisor,  
11 and so he's served in local government. He's an  
12 extraordinary person in that he is very keen in his  
13 connection with the way in which people value the  
14 resources of our state, the minds of our young people.  
15 And I know that he will do an extraordinary job.

16 So, Mr. President, I would commend to you  
17 Gary Reed for reappointment to the board of governors.

18 CHAIRMAN STEINBERG: Thank you, Senator  
19 Ashburn. We appreciate it.

20 SENATOR ASHBURN: Thank you.

21 CHAIRMAN STEINBERG: Senator Liu.

22 SENATOR LIU: Thank you, Mr. President and  
23 Members. It's my pleasure to introduce a constituent of  
24 mine, Geoffrey Baum, for confirmation as a member of the  
25 California Community Colleges Board of Governors.

4

1 I know you have Mr. Baum's credentials before  
2 you and numerous letters of support. I only want to  
3 emphasize, based on my personal experience, what a  
4 valuable contribution I believe he will make to the  
5 board. He brings a breadth of organizational and  
6 communication skills, and interpersonal skills as well,  
7 and he has had experience as a past president of the  
8 Pasadena City College Board of Trustees. And I  
9 certainly hope you give him your kind consideration.

10 CHAIRMAN STEINBERG: Thank you, Senator Liu.  
11 Senator Wyland.

12 SENATOR WYLAND: Mr. Chair and Members, I take  
13 really great pleasure in introducing Scott Himelstein,  
14 also for the board of governors at the community  
15 colleges.

16 I have known Scott for several years, but when  
17 I read his C.V., there were some things I didn't even  
18 know about. He was the founder of the Even Start  
19 Foundation in the mid '90s, executive director of  
20 California Reading Recovery. Under those two programs,  
21 they made enormous efforts in bringing books and  
22 literacy skills to children who might not have otherwise  
23 had them.

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1	Questions to All Appointees by SENATOR AANESTAD re:	
2		
3	Fees .....	26
4	K-12 funding going to community colleges .....	29
5		
6	Questions to All Appointees by SENATOR OROPEZA re:	
7	Role of community colleges .....	32
8	Goal of veterans committee .....	33
9	Listing of community colleges re career goals for incoming students .....	34
10		
11	Questions to All Appointees by SENATOR CEDILLO re:	
12		
13	Actions by the State to enable community colleges to do their jobs .....	37
14		
15	Change in funding .....	39
16	Result of less funding .....	40
17	Actions by legislature to facilitate greater interface between community colleges, CSU system and U.C. system .....	42
18		
19		
20	--o0o--	
21	Opening Statements by Governor's Appointees:	
22	WILLIAM HAUCK, Member, Trustees of the California State University .....	53
23	HENRY MENDOZA, Member, Trustees of the California State University .....	49
24		
25		

v

1	Opening Statement by Governor's Appointee:	
2	HADI MAKARECHIAN, Member, The Regents of the University of California .....	82
3		
4	Questions by CHAIRMAN STEINBERG re:	
5	University of California being more collaborative with other systems .....	84
6		
7	Executive compensation .....	85
8	Ramifications with respect to limiting compensation .....	89
9		
10	Necessity for exorbitant salaries .....	91
11		
12	Question by SENATOR CEDILLO re:	
13	Danger to system if efforts are not supported .....	87
14		
15	Questions by SENATOR OROPEZA re:	
16	Blue and Gold plan/Access for students of lesser means .....	94
17	New approaches .....	95
18		
19		
20	--o0o--	
21		
22	Proceedings Adjourned .....	97
23	Certificate of Reporter .....	98
24	APPENDIX (Written Responses of Appointees) ..	99
25		

vii

1	Questions to Both Appointees by CHAIRMAN STEINBERG re:	
2		
3	Relationship between high-school dropout rate and the CSU system/ CSU system's replication of U.C.'s A to G system .....	49
4		
5	Alternatives to A to G course for admissions .....	54
6		
7	Integration of rigorous curriculum with pathways .....	56
8		
9	Questions to Both Appointees by SENATOR OROPEZA re:	
10	Role of board member .....	60
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22 literacy skills to children who might not have otherwise  
23 had them.  
24 He was the president of the Lynch Foundation  
25 for Children, and in that capacity, when Superintendent

5



1 Bersin was at the school district in San Diego, he was  
2 assigned permanently to assist him in that.  
3 He later came to Sacramento as a deputy  
4 secretary and chief of staff when Alan Bersin was the  
5 secretary of education, and after his departure became  
6 the acting secretary for education.

7 Scott also created -- The information for the  
8 Committee says he directs the Center for Education,  
9 Policy and Law at USC. He created this position, which  
10 I think is relatively unique, at least in south  
11 Los Angeles, Southern California, which combines  
12 education, policy, and law, and he teaches at that  
13 foundation.

14 He also has done a great deal of work in the  
15 community for a long period of time. That was  
16 recognized in 2004 when he was honored as community  
17 leader of the year by the local newspaper, *The Union*  
18 *Tribune*. And one of those things he's done, and I know,  
19 Mr. Chairman, you and I share this interest, is a lot of  
20 work on career technical education. He is someone who  
21 believes that this is an important role for the  
22 community colleges, and I think is someone who would not  
23 only provide great direction as a member of the  
24 governing board, but also would be very helpful in this  
25 particular development.

6

1 him to humble another. He doesn't flatter well, boast  
2 of his own achievements, cringe before power. He speaks  
3 with frankness but always with sincerity and sympathy;  
4 whose deed follows his word; and he thinks of rights of  
5 others rather than his own; and, in my opinion, who  
6 appears well with any company, a man with whom honor is  
7 sacred and virtue is safe.

8 This passage that I just read to you was  
9 written by Mr. John Walter Wayland. He's the founder of  
10 the Sigma Alpha Epsilon Fraternity, and this passage is  
11 called "A True Gentleman."

12 But I believe that Henry embodies the character  
13 that's denoted in this passage. I think he would be an  
14 excellent addition to the board of trustees, and it  
15 would be my honor to vote yes for him, should we confirm  
16 him on the Senate floor. And I'm asking you to  
17 seriously consider Mr. Mendoza as an appointee, and I  
18 ask for your aye vote.

19 CHAIRMAN STEINBERG: Thank you, Senator, for  
20 coming to the Rules Committee. It means a lot.

21 Senator Harman.

22 SENATOR HARMAN: Thank you very much,  
23 Mr. Chairman and Members of the Committee. It's my  
24 honor to sort of repeat what Senator Calderon was just  
25 talking about, but for a different individual.

8

1 CHAIRMAN STEINBERG: Thank you, Senator Wyland.  
2 Appreciate it.

3 We have Senator Calderon here. Senator, if you  
4 want to come up, we're taking all of the introductions.

5 SENATOR CALDERON: Okay. Great.

6 CHAIRMAN STEINBERG: First we'll do all the  
7 introductions, and then we'll break for two weeks and  
8 come back.

9 SENATOR CALDERON: Thank you, Mr. Chairman and  
10 Members. Senator Calderon. I'm here on behalf of  
11 Henry Mendoza, who is --

12 CHAIRMAN STEINBERG: Wave, please.

13 SENATOR CALDERON: -- who is before you today  
14 seeking your approval for Cal State University board of  
15 trustees. You have before you, I'm sure, a list of all  
16 of his qualifications and his past endeavors, so I'm not  
17 going to address that today.

18 What I would like to address today is Henry's  
19 character, what I know about him. Henry is a man whose  
20 conduct proceeds from goodwill and an acute sense of  
21 propriety; his self-control is equal to all emergency;  
22 who does not make the poor man conscious of his poverty,  
23 the obscure man, his obscurity, or any man of his  
24 inferiority or deformity.

25 Henry is, himself, humble, if necessity compels

7

1 I'd like to talk to you about Hadi Makarechian.

2 Mr. Makarechian is before you today for consideration to  
3 appointment to the Board of Regents of The University of  
4 California.

5 I first met Mr. Makarechian about 12 years ago  
6 when I was a member of the Huntington Beach City  
7 Council. His company, which he is the chairman and  
8 founder of, was doing a major project in our city. I  
9 had many conversations and meetings with him concerning  
10 that project, and with his son, Paul Makarechian, who  
11 was assisting him at that time. And I can tell you that  
12 my dealings with Mr. Makarechian were very, very  
13 favorable. I found him to be an honest and ethical and  
14 concerned person.

15 He has gone on and done a number of other  
16 development projects around the state and around the  
17 country. He is the founder and chairman of Maker  
18 Properties in Newport Beach. He is, of course, a  
19 constituent of mine, living in my 35th Senate District.  
20 He's active in a number of charitable affairs and has an  
21 excellent, excellent reputation in the county.

22 And I am here today to tell you that I  
23 wholeheartedly support him in his quest to become  
24 appointed to the -- to become a member of the  
25 U.C. Regents, and I would ask, when you do consider him,

9

1 for your eye vote on his application.  
2 CHAIRMAN STEINBERG: Thank you very much,  
3 Senator Harman.  
4 SENATOR HARMAN: Thank you very much,  
5 Mr. Chairman.  
6 CHAIRMAN STEINBERG: Any other Senators  
7 upstairs?  
8 Let's begin. We're going to begin with the  
9 Community Colleges Board of Governors, and I'm going to  
10 ask as a group for Geoffrey Baum, Scott Himelstein,  
11 Lance Izumi, and Gary Reed to please come forward.  
12 CHAIRMAN STEINBERG: Senator Scott, I'm sorry.  
13 Senator Scott, of course. Come on up. I'm sorry.  
14 SENATOR SCOTT: That's all right.  
15 CHAIRMAN STEINBERG: I thought you were -- I  
16 didn't know you wanted to come up and speak.  
17 SENATOR SCOTT: Well, you know, I'm an  
18 ex-politician. You give me the microphone, I'm going to  
19 speak.  
20 CHAIRMAN STEINBERG: This is true.  
21 SENATOR SCOTT: I want to, number one, to  
22 second the nomination of those who have already been  
23 presented to you, because they've all served since I've  
24 been the chancellor beginning January 1st, Scott  
25 Himelstein and Gary Reed, that have already been

10

1 introduced to you, and Geoffrey Baum; but I wanted to  
2 say a word about Lance Izumi. It's been my pleasure --  
3 I want to talk about Lance as somebody who's already  
4 been on the job. This is a reappointment.  
5 The members of the board of governors felt so  
6 strongly about Lance Izumi that they elected him as  
7 their president, and I can tell you that I've witnessed  
8 his skills when he presides over the board of governors.  
9 He is unfailingly polite to anyone who wants to speak;  
10 he handles any controversies -- although, fortunately,  
11 we have very few -- extremely well; he is a skilled  
12 presider. And so, as a result, all of us wanted to see  
13 him seek reappointment, and he thought about it and  
14 decided that he would.  
15 So I'm very pleased to simply introduce to you  
16 Lance Izumi, the present president of the board of  
17 trustees -- I said board of trustees -- board of  
18 governors, and who I think deserves reappointment not  
19 only because of his past but because of his present  
20 contribution.  
21 And, of course, I've also witnessed and support  
22 the reappointment of Gary Reed, who serves extremely  
23 well on the board of governors, and our two newest  
24 members, which are Scott Himelstein and Geoffrey Baum,  
25 both of whom have already started their service, and

11

1 I've witnessed their skills in terms of working with the  
2 board of governors, asking excellent questions, doing  
3 their homework.  
4 So I think we really have a team of four  
5 outstanding individuals to be in the Community Colleges  
6 Board of Governors, and it's my pleasure to serve as the  
7 chancellor.  
8 I guess I'll close by saying: Obviously, I  
9 consider them people of unusual wisdom and judgment,  
10 because they selected me.  
11 CHAIRMAN STEINBERG: Thank you, my old seat  
12 mate, Senator Scott.  
13 Let's have the gentlemen come up.  
14 Welcome to all of you.  
15 MR. HIMELSTEIN: Thank you.  
16 CHAIRMAN STEINBERG: Rules Committee tradition  
17 to allow any of the nominees to introduce a family  
18 member or close friend who may be in the audience with  
19 you today.  
20 MR. BAUM: I just have one introduction I would  
21 like to make. I brought a student of mine at USC who's  
22 an intern this semester, this summer. His name is  
23 Phil Shaven. He's a community college transfer student  
24 from El Camino College and now a student at USC at the  
25 Annenberg School, where I work, and he was interested

12

1 about the process.  
2 CHAIRMAN STEINBERG: Welcome to you.  
3 SENATOR OROPEZA: A constituent of the great  
4 28th district.  
5 CHAIRMAN STEINBERG: Welcome.  
6 MR. IZUMI: I'd like to introduce my much, much  
7 better half, my wife, April, who is in the audience.  
8 CHAIRMAN STEINBERG: Welcome. Welcome to you.  
9 Very good. All right. Let's begin. I'll ask  
10 each of you to make a very brief opening statement.  
11 We're interested in, you know, what's at the core here,  
12 why you are interested in serving and what you want to  
13 accomplish during your tenure as a trustee.  
14 Go from --  
15 MR. REED: This side?  
16 CHAIRMAN STEINBERG: Yes. Introduce yourself  
17 again, please.  
18 MR. REED: Gary Reed.  
19 A number of years ago when I first graduated  
20 from high school, my father encouraged me strongly to go  
21 attend a community college, and I was somewhat reluctant  
22 to do so. But from there I went on to the university  
23 and graduated with a master's degree and learned the  
24 value of education.  
25 So when I came back to a real small rural

13



1 community where I live, Porterville, California, in the  
2 San Joaquin Valley, I had been working with the  
3 community college for the better part of the last  
4 20 years. And having said that, it just demonstrated to  
5 me over the years about the value of education,  
6 especially for rural citizens, is so important. And  
7 I've been fortunate to have served the last three years  
8 on the board of governors and shared my views as a board  
9 member coming from a rural area, and also my views as a  
10 small business owner.

11 Sometimes on these boards I find that the views  
12 that I have from my experience are somewhat different  
13 from my colleagues, and I think I've added value by  
14 being able to be in that position to do so. Thank you.

15 CHAIRMAN STEINBERG: Thank you.

16 Mr. Izumi.

17 MR. IZUMI: Thank you very much, Mr. Chairman  
18 and Senators. My name is Lance Izumi, and as Chancellor  
19 Scott mentioned, I'm the current president of the board  
20 of governors.

21 My interest in community colleges really stems  
22 back from -- along the lines of Member Reed. And I  
23 attended community college, actually, during the summer  
24 before I went to university at UCLA, and actually I took  
25 the most important course I think I ever took, which is

14

1 had the great pleasure of working with many of you and  
2 your colleagues while I was here in Sacramento on  
3 community college issues, and in particular with Senator  
4 Scott, on what I viewed as the two most important pieces  
5 of legislation over the past few years for community  
6 colleges: SB 70, which greatly expanded career  
7 technical education, it improved our capacity, quality  
8 of career technical education in the community college;  
9 as well as Senate Bill 361, which went a long way  
10 towards equalizing funding for community colleges in our  
11 state.

12 I would say for me, my particular interest is  
13 in the area of career and technical education. I think  
14 that's what, quite frankly, community colleges do best,  
15 having seen it up close. I think we have a tremendous  
16 opportunity right now to improve those systems. We have  
17 opportunities to engage our business and industry  
18 partners better. And also something I think we're  
19 making a lot of progress on is our partnership with our  
20 K-12 assistants who are better articulating our class  
21 work, providing students better opportunities to gain  
22 community college credit.

23 So my focus is in and around that area, and I  
24 very much look forward to it.

25 MR. BAUM: Hello, Senators. I was a little

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1 a typing course at El Camino College, and if it weren't  
2 for that course, I don't think I would have ever  
3 graduated.

4 But ever since that time, I've been able to see  
5 the importance the community college fills in the lives  
6 of all kinds of different people, from people like  
7 myself, as a student going into a four-year institution,  
8 and also students who are going to community college for  
9 transfer, but also, too, a great number of people who go  
10 back to community colleges for job retraining, career  
11 technical education, and lots of other different  
12 reasons.

13 So given that the community college has such an  
14 interesting and wide mission, and such great importance  
15 to so many people in the community, and with colleges  
16 being so entrenched in so many different places, I think  
17 that I've wanted to contribute by bringing my background  
18 in education, which I've been in research, education  
19 researcher, for many years. It's been mostly in the  
20 K-12 area, but I've been able to bring that and interest  
21 in improving education at the higher-education level. I  
22 think it's been a good fit, and I really enjoy my work,  
23 and, also, working with the great people who staff the  
24 community college chancellor's office.

25 MR. HIMELSTEIN: Mr. Chairman and Members, I

15

1 nervous, so I prepared a statement. Yesterday, I was  
2 preparing and I spent -- With due respect to Senator  
3 Aanestad, I was in the dentist's chair yesterday getting  
4 a root canal.

5 SENATOR AANESTAD: Is this easier or harder?

6 MR. BAUM: So far, easier, so I appreciate  
7 that.

8 Thank you for giving me the opportunity to  
9 appear as the Rules Committee considers my appointment.  
10 It's a tremendous honor to work on behalf of students  
11 and communities throughout California as a member of the  
12 Community Colleges Board of Governors and Pasadena City  
13 College, where I have served as an elected trustee since  
14 2001.

15 I want to share a little bit of my background.  
16 My father's an immigrant. He came to this country  
17 without speaking English. He grew up sleeping on a sofa  
18 in a one-bedroom apartment in a working class  
19 neighborhood in Brooklyn, where his father worked in a  
20 restaurant. Fortunately, my dad found a technical  
21 college, Brooklyn College of Pharmacy, and learned a  
22 profession that enabled him to support our family.

23 My mother grew up in the Midwest. She was  
24 married and divorced at 20. She married again,  
25 divorced, and was a single mom with two sons at 28. She

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1 married my dad a year later and had two more kids.  
2 Thank goodness they're still together. The marriage  
3 worked out.  
4 She loved books and learning, but her life  
5 situation did not enable her to go to college until the  
6 family moved to Southern California in the early 1960s.  
7 In Orange County, she found the local community college,  
8 Golden West College. When she had access, there was no  
9 stopping her. She enrolled in classes and pursued her  
10 educational dreams.

11 With an earnest desire to serve and gratitude  
12 for the opportunity they had been given, my parents both  
13 got involved in politics. My dad was elected mayor of  
14 our hometown, and years later my mom was elected to the  
15 Coast Community College District Board of Trustees.

16 That's the environment in which I was raised,  
17 and I've devoted my professional career in community  
18 service to higher education. As I mentioned, since  
19 2001, I have served as an elected governing board member  
20 of the Pasadena area community college district. I've  
21 been a board officer and served a term as president.  
22 PCC is widely regarded among the state's very best  
23 community colleges. It ranks at or near the top in  
24 virtually every category, including transfer to  
25 four-year colleges, awarding of associate's degrees and

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1 career and technical education certificates award.

2 In addition, I'm a member of the leadership  
3 team at the University of Southern California. For  
4 eight years, I was assistant dean of USC's Annenberg  
5 School for Communication and now serve as managing  
6 director at USC's Center on Communication, Leadership  
7 and Policy.

8 I've seen firsthand the power of education to  
9 transform lives. I see it every day on the campus of  
10 Pasadena City College and at community colleges across  
11 the state.

12 With three million students, ours is the  
13 largest system of higher education in the world. The  
14 board of governors sets policy and provides guidance for  
15 the 72 districts and the 110 colleges which constitute  
16 the system. We establish accountability standards,  
17 monitor performance, and are the entity that formally  
18 interacts with state and federal officials. We also  
19 select the chief executive for the system. The new  
20 state chancellor, as you know, is former PCC president  
21 and California State Senator Jack Scott, and I'm doing  
22 everything I can to support his work guiding the  
23 system.

24 My focus has been on the economy. With record  
25 levels of unemployment, home foreclosure, business

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1 failure -- and business failure, the demand for  
2 education and training has never been greater. Working  
3 closely with my colleagues on the board of governors, I  
4 support the role of community colleges as the state's  
5 economic recovery centers. As with any disaster,  
6 Californians must have access to resources and support  
7 in order to recover from this current crisis and get the  
8 economy moving again.

9 One paradox is that we know where the jobs are,  
10 and we have outstanding students eager to get the  
11 training and skills for new careers, but there's a  
12 shortage of access. We will continue to serve as many  
13 students as we can with the resources we have and hope  
14 we can find ways to serve the avalanche of newly  
15 displaced workers who need help.

16 Through my service on the board of governors, I  
17 hope to be an effective advocate for the community  
18 college system, maintain and strengthen the system of  
19 accountability that builds public trust, and work  
20 effectively with all of our partners in the system,  
21 faculty, staff, administrators, students, and, of  
22 course, the governor and the legislature, to expand  
23 access to affordable, high-quality instruction,  
24 especially during this time of economic crisis.

25 At our Pasadena City College board meeting last

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1 Wednesday, more than 100 students showed up to express  
2 their concern about the very difficult decisions that  
3 lie ahead. They're scared. And I told them I would  
4 remember their faces, their words, their anxieties, and  
5 their passion for learning. I promised I would not  
6 forget them when I met you today. So on behalf of these  
7 students and others across the state, thank you for your  
8 deep concern and steadfast support for our community  
9 college students and the state's community college  
10 system.

11 I'm deeply grateful to you and Governor  
12 Schwarzenegger for this opportunity. I look forward to  
13 working with you in the months and years ahead.

14 CHAIRMAN STEINBERG: Thank you, Mr. Baum.  
15 Thank you to all of you.

16 Let's open it up for some questions. I would  
17 just begin with maybe sort of an overriding question.  
18 We have little money in all of our systems. K-12 is  
19 taking a big hit. Our community colleges propose to  
20 take a significant hit, as is the CSU and U.C. systems.

21 I'm specifically interested in Senator Scott's  
22 SB 70 -- Is that the right number, SB 70?

23 MR. BAUM: Um-hmm.

24 CHAIRMAN STEINBERG: -- and how you think we  
25 can enhance the relationship between the K-12 system and

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1 the community college system, especially around this  
2 growing enthusiasm about career pathways and multiple  
3 pathways.

4 I'd like to hear your thoughts on that and how  
5 we build on it and how we maximize resources to help  
6 address the dropout rate, and how we educate and train  
7 people for a high-wage economy.

8 MR. IZUMI: I would just open up, and I'll turn  
9 it over to my colleagues too.

10 I think that the collaboration and cooperation  
11 between K-12 and community colleges, at least from the  
12 time I've been on the board, has been really hammered  
13 home to us. We can't just complain about being on the  
14 receiving end of people who need basic skills work, but  
15 we do have to certainly address that problem. Unless we  
16 do things in a proactive sort of way to tackle that,  
17 help our friends and cooperate with our friends in K-12,  
18 then we're certainly missing an opportunity.

19 I think one of the things that I've seen over  
20 the time I've been on the board has been this increased  
21 cooperation between the two segments. For example,  
22 right now we have programs where community college  
23 instructors are collaborating with their colleagues at  
24 the K-12 level to align curriculum standards and  
25 assessment and expectations in order so that the

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1 students at the K-12 level know what they could expect  
2 and then work to that.

3 Certainly, that is also the case, specifically  
4 in career technical education, where we're trying to  
5 embed math and English standards in career technical  
6 education so that the students can both receive that  
7 type of education, but also receive the education that's  
8 according to the K-12 standards as well.

9 So I think that by doing that and preparing  
10 K-12 students that way, you can have them -- encourage  
11 them to stay in school and prevent dropouts, because  
12 when they start hitting roadblocks, such as they find  
13 out that they need a lot of basic skills, at the end of  
14 the day it certainly encourages them to drop out. I  
15 think the people in higher education like us are trying  
16 to do preventive maintenance to make sure that doesn't  
17 happen.

18 CHAIRMAN STEINBERG: Thank you. Briefly.

19 MR. HIMELSTEIN: Senator, I think there are two  
20 things. Senate Bill 70 has gone a long way, but I think  
21 there's two areas that we can improve in, especially  
22 vis-a-vis the dropout issue.

23 I think community college instructors can  
24 better work with our K-12 partners on creating  
25 project-base learning curriculum, a curriculum that is

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1 very relevant to kids where in their junior -- sophomore  
2 and junior years, they can actually see down the road to  
3 community college, higher education, and into --

4 CHAIRMAN STEINBERG: What is the progress of  
5 that development?

6 MR. HIMELSTEIN: I think there's some very good  
7 examples around the state. I would admit I think there  
8 needs to be more -- I can speak to my area in San Diego.  
9 We have some very good examples in San Diego City  
10 College and San Diego city schools. I believe we could  
11 do more of it. I also believe we can further engage  
12 business and industry and involve them in the design of  
13 the curriculum in providing internships for students and  
14 externships for teachers, and I think the board can take  
15 a leadership role on that.

16 CHAIRMAN STEINBERG: Thank you.

17 MR. REED: One particular area that I have a  
18 concern about in the career tech area is these programs  
19 are very, very expensive, and we have to make sure  
20 there's a cost analysis of our return on our investment.  
21 And if we cut back in these programs during these  
22 difficult times, they may become very difficult to  
23 reestablish down the road.

24 Secondly, I think one of the things we  
25 really need to focus on, because there's so much talk

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1 today about the greening and about jobs related to that  
2 area, with the federal moneys that might be coming down  
3 the road towards job training, we have to make sure  
4 these are sustainable jobs, that we're not simply  
5 employing people for four to six to eight months and  
6 then terminating their employment. I think we have to  
7 tie all of that together. It cannot be just a  
8 short-term gain for a long-term loss.

9 And going back to the relevancy issue, we  
10 addressed that in our strategic plan where we are  
11 working with K-12 and doing what Scott just mentioned in  
12 terms of trying to prove and show students the relevance  
13 of the class work that they're taking. Those courses  
14 have to be relevant in today's society so that they can  
15 see the potential of what they can realize at the end of  
16 their tenure in community college.

17 MR. BAUM: I'll make it very quickly.

18 Two points: Our chancellor is the author of SB  
19 70, which was actually signed at Pasadena City College.  
20 I don't think there's going to be any lack of focus on  
21 the system level for seeing that that is implemented and  
22 expanding that commitment to career and technical  
23 education.

24 Also, we need to encourage the districts at the  
25 local level. Where I am, at Pasadena City College, we

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1 said with our K-12 districts, business as usual wasn't  
2 working and that we're working to integrate more of our  
3 programs with the Pasadena Unified School District and  
4 meeting together as both the school board and the local  
5 community college board to make sure that we have smooth  
6 transitions and sharing resources and working on behalf  
7 of the students at the earliest levels so that we can  
8 arrest some of these problems early on.

9 CHAIRMAN STEINBERG: Thank you.

10 Do we have questions from Members?

11 SENATOR AANESTAD: I do.

12 CHAIRMAN STEINBERG: Senator Aanestad, why  
13 don't you go first, and then we'll get to  
14 Senator Oropeza.

15 SENATOR AANESTAD: Thank you for meeting with  
16 me this morning.

17 The question I have really concerns the budget  
18 and what's happening in California. We've just enacted  
19 the largest tax increase in the state of California in  
20 February. Everybody is being hit.

21 When I went to community college, I told you, a  
22 million years ago, it was free. Today we do charge a  
23 fee, but it's really about the lowest in the nation.  
24 California ranks number 49 or 50 as far as per-unit fee  
25 for community colleges. Is that really fair to the

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1 taxpayer, or should those fees be significantly raised?

2 SENATOR OROPEZA: Easy question.

3 MR. HIMELSTEIN: Yeah. Senator, I certainly  
4 agree and know firsthand that the fees are the lowest in  
5 the nation, but I think it is true that community  
6 colleges were established to be affordable and very,  
7 very accessible by the public.

8 I think our policy at the board level has been  
9 very, very, you know, consistent, that the fees ought to  
10 be reviewed from time to time, but always keeping in  
11 mind how accessible higher -- public higher education  
12 should be to students.

13 Having said that, in these times, I think as a  
14 group we need to be open to variations. And I think, as  
15 Senator Scott has said, as long as those increases are  
16 modest, not all at one time, so to speak, maybe a  
17 phased-in approach, and that the fees actually go back  
18 into the system for the benefit of the student, all  
19 dollars in education, I think lots of things have to be  
20 on the table, including fees.

21 SENATOR AANESTAD: Just to go a little further,  
22 the fees that the student pays in the community college  
23 system really amount to only about 5 percent of the  
24 total cost of their education. Why shouldn't California  
25 be looking to be number 25 in the nation as far as fees?

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1 That means you could actually double the fee to \$40 a  
2 unit and still be in the average cost, and there would  
3 still be 25 states that would be more expensive. That  
4 would significantly improve the community college effort  
5 and yet not put the burden on the taxpayer.

6 Can you react to that too?

7 MR. IZUMI: I think, Senator, I understand,  
8 having been a researcher working with those types of  
9 numbers, what you're saying.

10 I think the board, in its time since I've been  
11 on the board -- the policy has been not so much to look  
12 at a particular percentage or average, but to see that  
13 if there are increases, that those increases be moderate  
14 and predictable, wherever we're going to go to, because,  
15 as you said, we have the consideration, certainly of the  
16 taxpayer that we have to consider, because they're  
17 subsidizing these fees.

18 Also, too, the students who do have to pay that  
19 should be able to look at those fees and be able to plan  
20 their financial future so that they know how much to  
21 expect in terms of increased fees that are coming along  
22 the pike.

23 So I think it's a bit of a balance between if  
24 there are increases, that whatever they are, the road to  
25 them should be moderate and predictable so the students

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1 can best be able to handle them.

2 SENATOR AANESTAD: Just to press it a little  
3 further, the fact of the matter is the community college  
4 system really is redoing the work, I believe, of the  
5 K through 12 system, especially the 11 and 12 system,  
6 with all the remedial programs that you need. The  
7 product that you're getting in the door probably isn't  
8 up to the standard it was 30 years ago when I went --  
9 35 years ago when I went to community college -- my  
10 goodness, 40 years ago.

11 The fact of the matter is we're spending  
12 millions, if not hundreds of millions of dollars, on  
13 remediation. When the legislature is looking for money  
14 and education moneys, in my opinion, it's not being well  
15 spent in the K through 12 arena. They're not doing  
16 their job. The community college system is doing a  
17 better job.

18 Do you think that the legislature should be  
19 looking at K through 12 moneys to go to 14 and 15  
20 moneys?

21 I know that that's a politically charged  
22 question, but the reality is: There's a finite number  
23 of dollars available for the educational system in this  
24 state, and I think it's the duty of the legislature to  
25 spend those dollars where it's most effective, and,

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1 certainly, it looks like you folks are doing a better  
2 job than K through 12. Why shouldn't we be looking at  
3 that funding, that source of funding, for you folks?  
4 Anybody want to touch that?

5 Senator Scott?

6 MR. IZUMI: Well, what I would say, Senator,

7 and certainly I understand -- Doing a lot of K-12  
8 research myself, I understand your comments about the  
9 K-12 system. I would simply say that we realize -- and  
10 I think, some of the comments that were made in our  
11 introduction -- and we want to translate our ability, I  
12 think at the community college level, to address the  
13 basic-skills issue, which is very large for our system.  
14 We have about -- Depending on how you count, 70 percent  
15 or more of incoming students to our system need basic  
16 skills education.

17 We have at the state level, through the board  
18 of governors and the chancellor's office, initiated the  
19 basic skills initiative, which has laid out best  
20 practices for our colleges in order to address this  
21 problem. But as we've mentioned, too, we're trying to  
22 get this information and this working relationship with  
23 our K-12 partners so -- to prevent that huge influx of  
24 students with basic skills coming into the system. And  
25 an ounce of prevention would be better than a pound of

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1 cure, so I think that's the way we've tried to address  
2 this issue that you're bringing up, and that's how --

3 SENATOR AANESTAD: Is it working?

4 MR. IZUMI: Yes, I think it is. Right now, in  
5 fact, for example, if you took just one program that I'm  
6 well aware of, the CalPASS system, which is the  
7 California Partnership for Achievement and Student  
8 Success, they have got now 66 professional learning  
9 counselors with 1200 or so instructors from K-12,  
10 community college, and other higher-education  
11 institutions getting together to align curriculum and  
12 prevent the need for basic skills, and they're using  
13 data in order to measure the outcome.

14 So I think that, you know, that holds --  
15 programs like that hold a lot of promise to prevent the  
16 need for basic skills instruction in higher education to  
17 the extent that we have it now.

18 SENATOR AANESTAD: Thank you. Senator Oropeza.

19 SENATOR OROPEZA: Thank you.

20 A quick question -- I don't know if it's quick,  
21 but a question about the current circumstance --  
22 economic circumstance and -- that we're in and what role  
23 community college will play or is playing in that. Some  
24 of you have spoken a little bit about that.

25 Let me say that when we're looking at an

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1 11 percent -- I differ a little with Dr. Aanestad, by  
2 the way, on some of his conclusions about fee levels. I  
3 think when you have an unemployment rate of 11 percent,  
4 it's not the time to be raising fees. It's the time to  
5 bring more people to the community college to educate or  
6 reeducate them. And also the fact that we've got lots  
7 of veterans coming back from the war needing education,  
8 having, perhaps, gone right from high school into the  
9 service.

10 What do you think the role of the community  
11 college should be, and what is -- what are you as a  
12 board member doing to make that happen?

13 MR. REED: Well, I think we've already  
14 established among our own board members, that we feel  
15 that as the center for this economic recovery, that  
16 we'll be the agency that can provide the training to get  
17 these young people and these adults back in the  
18 workforce and being productive contributors to society.  
19 We think we're the agency that can do that.

20 We're already working on the veterans issue  
21 that you just spoke to. We formed a committee. We have  
22 an alliance of -- I forgot the term, but troops to  
23 college, and we see ourselves playing a major role in  
24 that area.

25 As students -- Because of tuition costs and the

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1 like, when I came to this board just three years ago, we  
2 were looking at declining enrollment. But since the  
3 downturn in the economy, we've actually been  
4 experiencing a tremendous growth in our community  
5 colleges, because our students are looking for job  
6 skills so they can reenter the workforce.

7 SENATOR OROPEZA: And what are the kinds of  
8 things you think this committee will accomplish, or what  
9 is the goal of the committee that you have formed?

10 MR. REED: Well, Lance, you're actually on the  
11 committee, so I'll let you address that.

12 MR. IZUMI: Actually, I just appointed the  
13 chairman, a member, Bobby MacDonald, who is very  
14 interested in veterans issues. I think that what our  
15 committee plans to do is to work with our student  
16 services department unit in order to ensure, as you  
17 mentioned, that the services available for returning  
18 veterans are addressed.

19 Member MacDonald and myself actually serve on  
20 one of the armed services advisory boards here in  
21 California, and so we are very well aware of the needs  
22 of members of our armed forces and those returning. In  
23 fact, we just had a few months ago, at one of our  
24 regular board meetings, a presentation by returning vets  
25 about their needs and what they would like to see

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1 available at the community colleges, which is, again,  
2 one of the reasons why we formed this committee, to make  
3 sure those needs are addressed not just from the  
4 chancellor's office, but from the board.

5 So I think we're certainly fully cognizant of  
6 the importance of addressing this new group of community  
7 college students.

8 SENATOR OROPEZA: Right. Let me ask one more  
9 question, Mr. Chair, and it has to do with how people  
10 find out about or how people decide or figure out which  
11 community college they should go to.

12 My experience and my personal anecdotal  
13 knowledge -- I have a goddaughter who's in the community  
14 college system and has been for a couple of years -- is  
15 that there really is -- well, there has been difficulty  
16 in determining, you know, what is the best fit for an  
17 individual who has a career goal, but between community  
18 colleges. And there's really no place that sort of  
19 lists the top 100 community colleges, or the top 10  
20 community colleges in California like we have for other  
21 higher ed. systems.

22 So what are your thoughts about how we make  
23 that more user friendly for the students and get them  
24 more targeted -- get more targeting in terms of them  
25 connecting with the appropriate campus or system?

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1 MR. BAUM: Well, obviously, it's a  
2 communication issue, and we don't --

3 That I'm aware of, this is a role that the  
4 system can play effectively in informing the public  
5 about where the programs are offered and what -- where  
6 the specialties are stronger in one area or the other.

7 What's great about the community college system  
8 is it reaches every corner of the state so that students  
9 can have access. But we -- I don't know that there's  
10 exactly the resource that you described, and I think  
11 it's a -- at this time, I'm finding students that are  
12 going to two or three colleges in one semester to get  
13 different courses. And so whatever we can do to make it  
14 easier for them to find the courses and enroll in the  
15 programs would be important. And I think it's a good  
16 idea that we -- it's a role specifically that the system  
17 can play.

18 SENATOR OROPEZA: Just a suggestion to think  
19 about. As you are developing whatever comes out of this  
20 veterans group, interfacing with the military --  
21 interfacing with the military to provide information as  
22 part of the separation process for those who are coming  
23 back to California, just seems like a real, you know,  
24 sort of horse-smart kind of thing to do. So you might  
25 want to look at ways that from a system perspective, you

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1 can work with the military on that.

2 MR. BAUM: I'm glad you brought that up.  
3 There's two points I want to make about that. One is,  
4 one of the things we do with the system is showcase the  
5 programs that are working across the state and share  
6 them. So Solano district actually gets involved with  
7 the de-enlistment -- I mean the discharge process and  
8 sets up advising booths so that when veterans are  
9 released, they have access to the program.

10 The other thing we do is also advocate at the  
11 federal level for more resources to be directed to  
12 serving veterans, and we hope that some of the federal  
13 resources can be devoted, because California and the  
14 California community college system is the largest place  
15 where veterans are going to get an education when they  
16 finish their tours.

17 SENATOR OROPEZA: Thank you, Mr. Chair.

18 CHAIRMAN STEINBERG: Very good.

19 Senator Cedillo or Dutton on the panel?

20 SENATOR DUTTON: I was actually -- about the  
21 veterans program was what I was interested in.

22 CHAIRMAN STEINBERG: Very good.

23 Senator Cedillo.

24 SENATOR CEDILLO: General question. When we  
25 have a base agreement and challenges in the economy,

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1 what can the state do, working with the community  
2 colleges, to facilitate you guys in terms of training  
3 people for sustainable jobs, jobs -- I have particular  
4 interest in nursing and the healthcare fields. I have  
5 particular interest in green jobs, high-tech jobs.  
6 Obviously, you covered vets, the tremendous need.

7 What are the things the state can do, given the  
8 economic crisis and limited resources, that we can do to  
9 enable and encumber you to do your job?

10 MR. REED: One of the areas from a practical  
11 standpoint, and this is just my personal view, but we  
12 have standards, for instance, where 75 percent of our  
13 instruction has to be full-time instructors versus  
14 25 percent adjunct.

15 There's specific areas of career tech where I  
16 think that law or that ruling should be relaxed,  
17 especially in the area of nursing, if you will. It's  
18 very difficult to attract a nursing instructor  
19 full-time, firefighting, some specialty areas, and I've  
20 always been an advocate for that.

21 We should adhere to our standards, but there  
22 are specific areas -- For instance, in my area, we  
23 recently enacted a welding program, because a number of  
24 our dairymen were finding it very difficult to attract  
25 welders. So we have a certificated program now for

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1 welding, and it would be very difficult to have a  
2 full-time instructor as a welding instructor, if you  
3 will, whereas if they teach a class or two, it fits into  
4 their curriculum better.

5 So there are areas like that where I think the  
6 state, on some of the legislative matters, working with  
7 the Senate, faculty, and the like, could relax some of  
8 the standards so we could meet better the needs of the  
9 students.

10 MR. BAUM: I would just say, and this is a  
11 common theme you probably have heard, but the more that  
12 the legislature can support our efforts to fund the  
13 programs and allow more access to students -- As you  
14 know, we're the lowest cost per student segment of  
15 public higher education in the state. And as it stands,  
16 even Pasadena City College where I serve on the board,  
17 we're educating 1800 unfunded students over the cap that  
18 we receive from the state. So we're trying to stretch  
19 every dollar.

20 And what I'm worried about is that with the  
21 further cuts, we're going to not be able to serve the  
22 students at a time when our doors are being beaten down  
23 by people who have lost their jobs and are looking for  
24 retraining.

25 So when there's shrinking investment, put it

38

1 where the dollar is going to go the farthest, and I  
2 would like to advocate community colleges as the place  
3 where we could actually help people more quickly and  
4 more --

5 CHAIRMAN STEINBERG: Thank you.

6 SENATOR CEDILLO: Back when Senator Aanestad  
7 was at community college, he talked about -- Back when  
8 he was at community college, we were the number one  
9 funded --

10 CHAIRMAN STEINBERG: You mean Scott?

11 SENATOR CEDILLO: Senator Aanestad was  
12 waxing --

13 CHAIRMAN STEINBERG: Oh, I'm sorry.

14 SENATOR AANESTAD: I was surprised at how long  
15 ago it was.

16 CHAIRMAN STEINBERG: Sorry about that.

17 SENATOR CEDILLO: You're the one who wasn't  
18 here.

19 Back when my colleague, Senator Aanestad, was  
20 in community college, 25, 30, 35, 40 years ago, we were  
21 the number one funded public education in the nation.  
22 We're now at -- I don't know where we are -- 38, 40,  
23 45, for K through 14. What do you think has been the  
24 impact on the system in that change in funding over the  
25 years? What's been the impact on the economy and your

39

1 ability to do you're job? I know that runs concurrent  
2 with -- We all share the same concern with Mr. Aanestad.  
3 He talked about remedial education, a change in  
4 demographics, changing demographics, and changing in  
5 terms of the language skills of those who participate in  
6 community college. So what's been those impacts as  
7 those two changes have occurred concurrently?

8 MR. BAUM: Senator, I think I've observed over  
9 my time, my 20 years in education, and I think we agree  
10 that our system K through 14 is dealing with so many  
11 more issues than we have in the past, such as English  
12 language learners, a dramatic increase in special  
13 education, special-needs students. Any number of social  
14 things in our society that, quite frankly, has required  
15 more dollars to help solve. There are -- Having been in  
16 a policy position, there are arguments on both sides of  
17 that, what we should and shouldn't be doing.

18 I think the fact is that schools are now  
19 dealing with much more than they ever have, and I think  
20 it's had a dramatic effect on the K-12 system for sure,  
21 and I know the community college system as well.

22 SENATOR CEDILLO: Talk about that with -- Then  
23 what does less funding do? How does that exacerbate?  
24 Your challenges are greater, and now your resources are  
25 less.

40

1 MR. IZUMI: That's true. I think, just to take  
2 an example, I know -- and we talk about this quite  
3 often, actually, at our regular board meetings at the  
4 chancellor's office. The people who have to staff up  
5 the chancellor's office in order to do all the various  
6 things that need to be done, for example, the new  
7 accountability requirement that community colleges that  
8 report those sorts of things that need to be done have  
9 to be done with a much smaller staff than -- For  
10 example, just a few years ago, I believe we've gone from  
11 more than 200 staff people at the chancellor's office to  
12 about 160 now.

13 And in this era of accountability, having to do  
14 more things and make sure those dollars are stretched  
15 and used as wisely as possible, which I know the  
16 chancellor's office does, but it does make things  
17 difficult with the increased responsibilities.

18 With regard to, for example -- with regard to  
19 the change in demographics that my colleague  
20 Scott Himelstein mentioned, I think we realize if we're  
21 going to continue to be a gateway institution for people  
22 in terms of -- be a higher education then into the  
23 workplace, we have to make sure that people understand  
24 that they have that opportunity within the community  
25 colleges, which is why, for example, we have a "I Can

41



1 *Afford College*" media campaign, which is a -- a large  
2 part of that is directed to Spanish language  
3 advertisement in order to make sure that all segments of  
4 California understand that they do have that opportunity  
5 to attend community college here, and it remains the  
6 gateway for everyone.

7 SENATOR CEDILLO: Finally, because I can stay  
8 here all day with this, I applaud you and I will support  
9 all of you. You're more than qualified. I think you're  
10 understating -- you know, if you were the chamber, you  
11 would be telling us what a disaster this is, given that  
12 you've got greater responsibility and greater challenges  
13 and less money, how you can do your job and what the  
14 consequences are in the community. I know you need a  
15 bigger voice.

16 But nonetheless, today is a rare day. We're  
17 not just dealing with people here that are on parole  
18 appointments, but we actually have community college,  
19 CSU, and regents that we're all going to appoint today.  
20 What is it that we can do, as the legislature, to have  
21 greater interface between those three institutions?

22 Frequently, the criticism is we have three  
23 silos of education. The master plan was one that  
24 community colleges would be the gateway, on one hand,  
25 that will help transition and help to change the

42

1 economy. Then we have the CSU and UCs. What can we do  
2 to help -- could we, the legislature, do to help to  
3 bring more interface, more seamless transition, between  
4 those three institutions, yours, the CSU, and the UCs?

5 MR. BAUM: First off, just encouraging it. I  
6 think with the new leadership in our segment and the  
7 U.C. -- I know that Chancellor Scott, Chancellor Reed,  
8 and Chancellor Yudof interact very carefully. And we as  
9 a board take that as an important role, that we  
10 shouldn't be operating independently from all the other  
11 systems of higher education. So it's a communications  
12 and encouraging role, and then calling on us to make  
13 sure that we're in agreement.

14 And also, in some very pragmatic ways, just  
15 making sure that we, as a system, are aligning our  
16 curriculum for seamless transfer and articulation with  
17 the other systems, and holding us accountable for that  
18 so that we don't have some of the issues that a few  
19 Members have brought up to us where students at  
20 individual community colleges find that their coursework  
21 doesn't transfer seamlessly to Cal State or U.C. We  
22 want to take that on as well, mindful of the local  
23 control issue that we have with the individual  
24 districts. But that type of -- Just reminding us and  
25 encouraging us. I think in this situation, we all see

43

1 that more integration is better.

2 SENATOR CEDILLO: Yes.

3 MR. REED: For a number of years, in the area  
4 that I live, our students didn't have access to a  
5 four-year institution, so our community college really  
6 was a higher form of education for them. And yet  
7 through distance learning and through the cooperation of  
8 the CSU system, we're seeing now more like, for  
9 instance, California State University of Fresno has been  
10 offering programs in Visalia at the local community  
11 college campus in an effort to cooperate and give our  
12 students the opportunity, that don't have transportation  
13 or the means to attend a four-year institution. They  
14 have access, and that means a lot.

15 And this seamless process that we talk about is  
16 that now they have the opportunity to see if they go to  
17 a community college in a rural area, they still have the  
18 opportunity to graduate from a four-year institution.  
19 And that's been done as a result of the kind of  
20 cooperation that you're speaking to today.

21 SENATOR CEDILLO: And U.C. Merced will enhance  
22 that?

23 MR. REED: Oh, absolutely. Absolutely. That's  
24 been a great boon to our valley, even though it's not in  
25 Tulare County. It should have been in Tulare County.

44

1 Maybe you can ask the chancellor why that didn't happen.

2 SENATOR CEDILLO: I think we needed to --  
3 (Laughter.)

4 CHAIRMAN STEINBERG: Thank you, Senator.  
5 Witnesses in support? Witnesses in opposition?  
6 Okay. Well, I think I want to thank the  
7 Members, first of all, for initiating, I think, a very  
8 important and thorough discussion. And I suppose I  
9 just -- I want to make two comments in conclusion --  
10 well, three.

11 First of all, I'm very pleased to support all  
12 of you. I think you all are well-qualified, and you  
13 obviously bring a dedication to trying to improve the  
14 system and create more opportunity for kids.

15 Couple things: The community college system  
16 has the only residential program of its kind for Autism  
17 Spectrum Disorder at Taft, near Bakersfield, and the  
18 purpose of the program is to help those living with  
19 developmental disabilities gain the employment skills to  
20 be contributing taxpayers to the best of their  
21 abilities. And that, obviously, can save the state a  
22 lot of money, in addition to providing opportunity for  
23 people who deserve opportunity. And I would just ask  
24 all of you, as you go forward here with your terms,  
25 should you be confirmed, to look at replicating that,

45

1 because, you know, there's a big waiting list.  
2 The Department of Developmental Services and  
3 the EDD system is likely to take a hit in the budget  
4 too, so what can we be doing to sort of, again,  
5 integrate systems so it would be possible to make sure  
6 people have every opportunity to be contributing.  
7 Final comment, I want to pick up on Senator  
8 Cedillo's comment a moment ago. Once you are confirmed,  
9 you have six-year terms, and you're not at-will. Nobody  
10 can remove you for saying something that offends  
11 somebody else, and I urge you to take advantage of that  
12 freedom and to be public advocates for this system. And  
13 I know you are, but to even -- to think beyond, you  
14 know, the board meetings and what you do, because your  
15 role is largely advisory. I mean, this is a system that  
16 will -- Where the governor sits is largely advisory. So  
17 whether it's op eds, TV appearances, radio appearances,  
18 where you can talk about -- and I'm not getting  
19 ideological here, but you can talk about the impact of  
20 whatever decisions that we may be called upon to make  
21 here that impact community colleges, you should take  
22 advantage of that opportunity, because we can't be the  
23 only ones, and some would argue that we may not be the  
24 most effective messengers at this point in time. So I  
25 want to urge you to be assertive and public about how

1 you feel about community colleges.  
2 I'll take a motion.  
3 SENATOR OROPEZA: Moved.  
4 CHAIRMAN STEINBERG: Moved by Senator Oropeza  
5 on all four nominees.  
6 Please call the roll.  
7 MS. BROWN: Senator Cedillo.  
8 SENATOR CEDILLO: Aye.  
9 MS. BROWN: Cedillo aye.  
10 Dutton.  
11 Oropeza.  
12 SENATOR OROPEZA: Aye.  
13 MS. BROWN: Oropeza aye.  
14 Aanestad.  
15 SENATOR AANESTAD: Aye.  
16 MS. BROWN: Aanestad aye.  
17 Steinberg.  
18 CHAIRMAN STEINBERG: Aye.  
19 MS. BROWN: Steinberg aye.  
20 CHAIRMAN STEINBERG: Your nominations will move  
21 to -- oh, we're going to keep the roll open for  
22 Senator Dutton, of course, but your nomination already  
23 has more than the requisite number of votes, will move  
24 to the floor of the Senate, and we'll take it up before  
25 Judge Sotomayor is taken up by the U.S. Senate.

1 Okay. Thank you all very much.  
2 MR. IZUMI: Thank you very much.  
3 MR. HIMELSTEIN: Thank you.  
4 MR. BAUM: Thank you.  
5 MR. REED: Thank you.  
6 CHAIRMAN STEINBERG: Appreciate it.  
7 Let's take a short break.  
8 (Recess taken.)  
9 CHAIRMAN STEINBERG: Let us come back to order  
10 here.  
11 Let me ask William Hauck and Henry Mendoza, who  
12 are up for confirmation as trustees of the California  
13 State University system.  
14 Welcome to both of you.  
15 Mr. Mendoza, is there anyone you want to  
16 introduce?  
17 MR. MENDOZA: Absolutely.  
18 CHAIRMAN STEINBERG: Since there's two mics and  
19 there's two of you, we don't have to shift the mics  
20 around. Very good.  
21 MR. MENDOZA: Absolutely. I'd like to  
22 introduce the CEO of my family, my wife, Rosa, who gave  
23 up her day today of working with my two lovely kids,  
24 Sophia and Isabella.  
25 CHAIRMAN STEINBERG: Welcome to you, and thank

1 you for coming.  
2 MR. MENDOZA: And a good friend of mine, Joel  
3 Ayala, from the California Hispanic Chambers of  
4 Commerce.  
5 CHAIRMAN STEINBERG: Welcome to you as well.  
6 Mr. Hauck, I know you have great family and a  
7 lot of people, but they're not here, so, you know, I'll  
8 introduce you. You're my constituent.  
9 MR. HAUCK: Thank you, Senator.  
10 CHAIRMAN STEINBERG: Long-time --  
11 MS. SABELHAUS: Great intro.  
12 CHAIRMAN STEINBERG: Long-time public servant  
13 and good man. All right.  
14 Opening statements. I'm specifically  
15 interested -- Just so you know where I'm going to hone  
16 in in terms of my questioning, is, again, the  
17 relationship between the high-school-dropout rate, the  
18 California State University system, and specifically  
19 explore why it is the CSU system replicates the U.C.'s  
20 A to G system. I want to talk a little bit about that  
21 today, so go ahead. Your opening comments.  
22 MR. MENDOZA: I'll go.  
23 My name is Henry Mendoza. I'm a native  
24 Californian. My father was born here in California many  
25 years ago. The only thing, he was repatriated with his



1 family back to Mexico during the depression and came  
2 back and was kind of robbed of the ability to -- He  
3 didn't really get assimilated when he came back. He  
4 didn't know English, he didn't know Spanish, but it  
5 didn't deter him. He followed the crops and eventually  
6 got a factory job, and he pushed us to go to school.

7 I'm from a family of five children. My brother  
8 is a dentist here locally -- in the San Francisco area  
9 and also teaches at U.C. San Francisco. So he's here  
0 taking advantage of the system that we have here.

1 One of the reasons that I think this is a  
2 fantastic opportunity for me, to be a trustee, is that  
3 it's something that I have never thought of getting in.  
4 I always tell people that the only time I saw the inside  
5 of an office was to clean it when we were kids.

6 So never even once thought we were going to  
7 make it to college. But some teachers, when I was  
8 young, when I was a kid, were pushing us to go to  
9 school, go to school, go to school, which I didn't  
0 understand why we were going to go to school, but I kept  
1 pushing forward. And if it wasn't for them, I wouldn't  
2 be where I'm at, and I wouldn't be taking advantage of  
3 the prosperity of this state.

4 Since I've been helped, it's been one of my  
5 lifetime things just to be an advocate for kids and

50

1 business, et cetera, in the state of California. I  
2 started getting involved over 20 years ago, and I kept  
3 being involved. I think this is a pinnacle.

4 I am a product of the Cal State system. I went  
5 to Cal State Fullerton, and I've been very proud to say  
6 that I've gone to the Cal State system and attended one  
7 of the colleges, universities.

8 So, again, I'm very, very honored to be a  
9 trustee. If my parents were alive, they would probably  
0 be beaming right now. But, again, I just think this is  
1 great for me and for my kids and for the community,  
2 because I've been an advocate to get the kids to go to  
3 school one way or the other.

4 And, Senator, you talk about the dropout rate.  
5 I know very, very, very much so, because in our area --  
6 it's over 50 percent in the local area of Santa Ana, and  
7 to get these kids to do something, whether it be taking  
8 one route or the other, I think is huge, because as the  
9 demographics change, you know, there has to be a  
0 solution for it. Because if not, it's going to be, I  
1 think, a burden on the state if the kids don't get to  
2 school and get educated one way or the other.

3 So, again, if I can either as a role model or  
4 to help shape the system and what happens there, I think  
5 it's a great opportunity.

51

1 CHAIRMAN STEINBERG: Very good. Thank you.  
2 Mr. Hauck.

3 MR. HAUCK: Mr. Chair and Members, Bill Hauck.  
4 I live in Sacramento. I am a product also of the CSU  
5 system, and I'm very dedicated to it because I feel very  
6 strongly that to the extent that I've been able to  
7 achieve anything in my career, it started with my  
8 ability to work my way through San Jose State. And I  
9 think I'll leave it at that.

10 And perhaps I can begin by addressing your  
11 question, Senator Steinberg.

12 CHAIRMAN STEINBERG: Okay.

13 MR. HAUCK: First, I'm not familiar with the  
14 intricate process that occurs between U.C. and CSU to  
15 establish these A through G requirements and all the  
16 machinations of faculty deciding what courses are  
17 acceptable or not acceptable at U.C., for U.C. and CSU  
18 admission. But the way I would address your question is  
19 to say since the CSU system trains more than 60 percent  
20 of the teachers of California, and it appears we are not  
21 getting the kind of results from our K-12 system that we  
22 need, we have a lot of work to do.

23 We have great responsibility for the training  
24 of these teachers, and if we are not succeeding in that,  
25 as evidenced by many of the difficulties we have in the

52

1 9500 or so schools that exist in this state, we need to  
2 be looking at how teachers are being trained in the CSU,  
3 and we are doing that.

4 Charlie Reed, as the chancellor of this system,  
5 is very dedicated to that and very impatient with the  
6 schools of education to go out there and find out what  
7 the best practices are in schools that are succeeding.  
8 And there are many schools that are succeeding. We've  
9 identified more than 900 that are succeeding, and over  
10 200 of them are high poverty and high minority districts  
11 and schools.

12 We know one thing: If we have competent and  
13 good teachers in the classroom, they can motivate kids,  
14 and they can motivate them to stay in school. And more  
15 than anything, we need to accomplish that today, because  
16 more than two-thirds of the kids in K-12 today are  
17 minority young people, and they are the future workforce  
18 of this state, and they are the future of the state.

19 So we have taken a number of steps to revamp  
20 the education department's curriculum, and, as they say  
21 from the top, there's lots of dedication to this task,  
22 lots of partnerships with K-12. And I think we're  
23 beginning to see the result of that, but we certainly  
24 have quite a ways to go.

25 CHAIRMAN STEINBERG: Thank you.

53



1 Let me open it up here just a little bit and  
2 focus the discussion.  
3 The CSU -- I want to welcome Chancellor Reed,  
4 by the way, who is here. Welcome to you. Thank you for  
5 being here today.  
6 The CSU has made a policy decision that it is  
7 going to follow the University of California in  
8 determining what is considered in high school an A to G  
9 course sufficient to qualify you for admission. And one  
10 of the discussions that we're having currently with the  
11 University of California is how the university and its  
12 system begins looking at rigorous courses in math and  
13 science and in English, that are applied to particular  
14 career paths and professions.  
15 In other words, in this building, in my view,  
16 there's sort of an artificial debate between the  
17 high-standards advocates and the career-tech-ed.  
18 advocates, and certainly we cannot track kids. We can't  
19 do that. The only answer -- because too many kids of  
20 color get tracked.  
21 But the answer to the problem, in my view, is  
22 to begin working earnestly to develop applied  
23 curriculum, rigorous curriculum, for all the various  
24 career pathways where the high-wage jobs are in the  
25 future. Why can't algebra be taught in ten different

54

1 ways, or geometry be taught in ten different ways as  
2 applied to a construction pathway, a biotech pathway?  
3 Name your ten leading directions of our economy. And  
4 what bothers me a little bit -- more than a little  
5 bit -- is that the CSU is replicating the U.C. without  
6 thinking themselves how might we bring our own  
7 independent thinking and creativity and energy into  
8 not lowering standards, but looking at how the CSU can  
9 be a place like the community colleges, but even more  
10 so, that focuses on rigor but pathways at the same  
11 time.

12 And so I'd like to hear your thoughts on that,  
13 and if it's something that you hadn't really thought of  
14 before or didn't know that CSU follows the U.C. when it  
15 comes to A to G, it's certainly something I would like  
16 you to take away from this hearing and really look into,  
17 because I think this is the core of economic development  
18 here.

19 MR. MENDOZA: I'm fairly new. I've only been  
20 to three meetings this last year. I think it's  
21 something to think about. I'm not sure I understand,  
22 Senator, when you said people of color are tracked --

23 CHAIRMAN STEINBERG: I'm saying that's a  
24 danger. When you have multiple pathways, that poor kids  
25 and kids of color are going to get tracked, and that's

55

1 not acceptable.

2 MR. MENDOZA: That is actually what I thought  
3 you meant because, actually, personally, that happened  
4 to myself and my brother. So, you know, early on,  
5 people were suggesting we take a certain path, and if we  
6 had followed that path, we probably would not have been  
7 where we're at. So I think it is something that can be  
8 a danger.

9 But at the same time that I say that, you  
10 can't -- I'm not the type of person that would like to  
11 ignore another solution, because there obviously is  
12 something wrong. If you see the dropout rate out  
13 there -- 50, 40 percent, myself as Hispanic, you know,  
14 10 percent of our kids going to school -- it's  
15 ridiculous. Well, then, they've got to do something  
16 else besides just dropping out of school.

17 So I think, you know, coming up with an idea  
18 where you can have some type of safeguards against  
19 tracking those kids, because it happens, so....

20 CHAIRMAN STEINBERG: There is a safeguard.  
21 It's called rigor. It's called making sure all the  
22 courses are of strong academic content so that the kids  
23 of color aren't shoved into the easier courses that may  
24 be technical. The technical courses have to be  
25 rigorous. And where is the work? Where is the work

56

1 being done? And shouldn't there be more work being done  
2 at the CSU system to integrate rigorous curriculum with  
3 pathways?

4 MR. HAUCK: I think that's correct. I think  
5 we're beginning to do that, but -- We get your point.  
6 What you say is reasonable, and we will take that -- we  
7 will take your admonitions and follow through on this.

8 CHAIRMAN STEINBERG: Thank you.

9 MR. HAUCK: I'm not a technical expert in this  
10 area.

11 SENATOR OROPEZA: Can I chime in?

12 CHAIRMAN STEINBERG: Yes, chime in. It's a  
13 very important discussion.

14 SENATOR OROPEZA: This is a very important  
15 issue, and looking at the demographic profile of our  
16 state and where it is heading, there is a danger of this  
17 tracking thing becoming again as it was when I was in  
18 school. It seemed to have gotten a little better for a  
19 while, and then it kind of reverted.

20 Let me say that I think that the -- because the  
21 CSU is the institution of higher education that educates  
22 most of our teachers, it is the prime place to do this  
23 kind of work, because as part of -- part of the, you  
24 know, credentialing -- part of the teaching of the  
25 teachers ought to be research work and development of

57

1 new curriculum that responds to this.  
2 So this is something that you as trustees --  
3 and believe me, I know, because I was one. I was a  
4 student trustee a long time ago. I know that you have  
5 the ability to make a course correction on this. There  
6 is no reason why it shouldn't be being done. So I hope  
7 that you will heed the chairman's words on this, because  
8 it really is about what the future of our state is.  
9 It's that serious. And nobody's better in a position to  
0 do it than the community college -- I mean, excuse me,  
1 the CSU.

2 CHAIRMAN STEINBERG: If I may before you  
3 answer, and I'll get off my bully-pulpit high horse in  
4 just a moment here, all right? Hey, these -- You're  
5 both good guys. I'm going to recommend both of you for  
6 confirmation. But this is an opportunity to have a real  
7 discussion about what is important, and so we want to do  
8 that.

9 Senator Oropeza I think kind of hit the key to  
0 this, and that is looking at -- the CSU is the single  
1 biggest producer of teachers for our K-12 system --

2 MR. HAUCK: Right.

3 CHAIRMAN STEINBERG: -- and what isn't  
4 happening -- what isn't happening is that the teaching  
5 program, the credentialing programs, are not providing

58

1 the training, by and large, to teachers to be able to  
2 deliver hands-on, applied, rigorous curriculum.  
3 So maybe the place to start and the biggest  
4 place where the CSU can make such a contribution is to  
5 look at the teacher training program to make sure that  
6 we're producing the next cadre of teachers with not only  
7 the academic underpinnings to be able to teach the  
8 academic courses, but to be able to do so, again, in ten  
9 different applied ways, because then you've got -- it's  
0 like -- You know, it's like a quarterback who can both  
1 pass and run. Much more effective, much more dangerous  
2 than a quarterback who can just pass.

3 I think --

4 SENATOR OROPEZA: And then throw in the  
5 dynamic -- the other piece, which is in the  
6 multicultural education --

7 CHAIRMAN STEINBERG: In a multicultural --

8 SENATOR OROPEZA: In a multicultural student  
9 environment, which is the other thing --

0 MR. HAUCK: We certainly have that.

1 SENATOR OROPEZA: -- teachers need to be  
2 teaching -- need to be learning.

3 MR. HAUCK: I think some of this is happening,  
4 Senator, but perhaps not enough. Probably not enough.

5 CHAIRMAN STEINBERG: Okay. Other Members?

59

1 SENATOR OROPEZA: I do.  
2 CHAIRMAN STEINBERG: Senator Oropeza.  
3 SENATOR OROPEZA: What do you think the role of  
4 a board member is in regard to a conversation like the  
5 one that we're having now? And you mentioned maybe more  
6 should be happening. I mean, what is the role of a  
7 board member or the board as a whole?

8 MR. HAUCK: Well, the first thing I would do  
9 would be to turn to Charlie Reed, who is the CEO of the  
10 system, and say, "What are we presently doing?" and ask  
11 him for a report on that. And then we would go from  
12 there.

13 If, in our judgment, we're not doing enough, we  
14 need to do more, we're not doing it well enough, then we  
15 would direct him to make that happen. That's the role  
16 of the board. Not to actually do it, but to --

17 SENATOR OROPEZA: Certainly support the  
18 chancellor.

19 MR. HAUCK: Support and make it happen, yes.

20 SENATOR OROPEZA: But also to make it happen?

21 MR. HAUCK: Right.

22 SENATOR OROPEZA: And sometimes maybe push back  
23 a little on the chancellor, now and then, in a polite  
24 way, but nonetheless....

25 CHAIRMAN STEINBERG: Charlie's used to that.

60

1 MR. HAUCK: Yes, he is.

2 SENATOR OROPEZA: Pardon me?

3 CHAIRMAN STEINBERG: He's used to that.

4 SENATOR OROPEZA: Let me ask a couple quick  
5 other questions. One is about one of my chief interests  
6 legislatively up here, and it's an abiding issue for me  
7 to keep an eye on both -- well, all the systems, and  
8 that is Title IX. And CSU is not doing so well in this  
9 regard, particularly Fresno. But we got a problem. We  
10 have got a serious problem.

11 The CSU system paid out over \$16 million in  
12 lawsuits to five former employees, all women, at Fresno,  
13 and that's been since October of 2007. The sixth woman  
14 filed a lawsuit in February against  
15 CSU Fresno alleging gender discrimination and Title IX.

16 What is the role of the board in assuring that  
17 Title IX is adhered to, that we avoid these lawsuits  
18 where there's money that can be much better spent in  
19 another place than lawsuits?

20 So tell me about what you think the board  
21 should be doing and is doing, since this is an existing  
22 problem.

23 MR. MENDOZA: I know that we're monitoring it  
24 very closely. It's an issue that's come up since I've  
25 been there. I know there's been reports done to the

61



1 board, and they're reporting to Charlie, the chancellor,  
2 also.

3 So I think it's something we're taking very,  
4 very seriously. It's something that, number one, it's  
5 wasting money for all of us, that we're all trying to  
6 find. And, two, I think it's something that's not  
7 acceptable, and it needs to be monitored and fixed, if  
8 that's what needs to be done, or make sure that it  
9 doesn't happen again.

10 We're making sure that -- We're getting reports  
11 on a pretty regular basis, you know, from the chancellor  
12 and the presidents on that monitoring. I know at most  
13 of the colleges, we're about 90 percent there. It's not  
14 always that easy, as far as I understand, to be in  
15 compliance, because of scholarships, et cetera, NCAA,  
16 et cetera.

17 SENATOR OROPEZA: Trust me. If you have sat  
18 through the hearings that I have sat through and heard  
19 directly from the mouths of the individuals involved,  
20 you would, perhaps, see it a little differently.

21 Mr. Hauck, you've been around a while.

22 MR. HAUCK: Yes.

23 SENATOR OROPEZA: So for you, there ought to be  
24 some accountability on this issue as a board member, as  
25 an individual board member and as a member of the

62

1 collective board. So Mr. Mendoza is a new member. He's  
2 been there a few months. He understands there's a  
3 problem. He believes he's part of the group that is  
4 going to make sure it doesn't happen again.

5 Talk to me about how it has happened multiple  
6 times on your watch. Talk to me about that and what the  
7 board does or doesn't do about it.

8 MR. HAUCK: Okay.

9 SENATOR OROPEZA: I know that's an assertive  
10 question.

11 MR. HAUCK: Right.

12 SENATOR OROPEZA: But I feel that it's  
13 appropriately so.

14 MR. HAUCK: It's clearly our responsibility to  
15 be sure that we are compliant with Title IX.

16 Specifically, in the Fresno State situation, mistakes  
17 were made. There's no question about that. And the  
18 mistakes that were made definitely raised a level of  
19 sensitivity and visibility to the issue on our board.

20 We have a new athletic director there.  
21 Actually, he's not new now. He's been there two years.  
22 I think the previous athletic director made some very  
23 bad mistakes, and we've acknowledged that those mistakes  
24 were made, and we've held the president there  
25 accountable in the course of the evaluations that we do

63

1 of all presidents.

2 So with respect to this latest allegation, it's  
3 so new in the process that we don't yet know what the  
4 fact situation actually is. There have been allegations  
5 made. We don't know whether they are legitimate or not,  
6 but I can assure you, Senator, that we are going to be  
7 asking our general counsel for information about that as  
8 we proceed.

9 SENATOR OROPEZA: Good, good.

10 MR. HAUCK: I guess, secondly, I would say we  
11 have instituted training programs at all of our  
12 universities with regard to the treatment of all  
13 personnel with regard to compliance with Title IX. And  
14 it's my hope, and, I think, my belief that we will not  
15 see these kinds of problems in as -- in as much as we've  
16 seen them and in as great a quantity as we've seen them  
17 in the past.

18 In the CSU system, there are 47,000 employees.  
19 Most of the lawsuits that are initiated are  
20 employer-employee-relations lawsuits. Again, through  
21 training programs, we have pushed everyone in order to  
22 reduce the number of lawsuits. And, actually, that's  
23 happened. We have significantly reduced the number of  
24 employee-employer-relations lawsuits that the system  
25 deals with. Will we ever get it to zero? Probably not

64

1 with 47,000 people.

2 But I can tell you sincerely that this is a  
3 matter that is of tremendous concern to us, and,  
4 particularly, gender inequities are just not acceptable.  
5 That's all. They're just flat not acceptable. And when  
6 we see them, we are going to hold people accountable.  
7 And that's the role, I believe, of the board.

8 SENATOR OROPEZA: I think that's a great  
9 answer, and I appreciate it. And I appreciate both of  
10 your commitments to follow through on this issue and a  
11 commitment to accountability, which is so critical,  
12 because my experience with the Fresno situation is that  
13 it goes pretty high, the need for some adjustment goes  
14 very high.

15 You mentioned that in the evaluations of the  
16 president, that was discussed and handled.

17 MR. HAUCK: It was more than discussed.

18 SENATOR OROPEZA: Okay. Dealt with. I won't  
19 ask anything beyond that, but I think that that's very  
20 appropriate, and I hope that that level of concern  
21 continues. And I feel reassured --

22 MR. HAUCK: It will continue.

23 SENATOR OROPEZA: -- hearing your response.

24 Finally, let me ask one more question, and that  
25 relates to executive compensation, and what your beliefs

65



1 and attitudes are in terms of the decisions that have  
2 been made over the last period of time where there have  
3 been an expansion of full-time management positions in  
4 the same period of time where there was -- let's see.

5 There were 100 full-time management positions  
6 between fall of '07 and fall of '08 that were added, and  
7 the -- while that -- during that same time, faculty was  
8 reduced by 184 full-time positions.

9 The -- There were also raises that were given  
0 to management employees, 24 percent systemwide. And I  
1 hate to say, my alma mater, it was 86 percent. And at  
2 CSU Sacramento, it was 87 percent.

3 And so what is your response to the board's  
4 policy on executive and management compensation?

5 MR. HAUCK: Do you want me to start?

6 SENATOR OROPEZA: Period.

7 MR. MENDOZA: As far as -- Again, since I've  
8 been -- I am -- I have limited time there, but I have  
9 not seen any raises given. I know we've hired a new  
0 vice chancellor. And for those of you that don't know,  
1 I was there in '07 for a couple meetings, and then  
2 because of some technical -- technicalities, I was off  
3 for a year. And I know at that point in time there were  
4 some adjustments made.

5 At that point in time, I don't think we were in  
66

1 the same place we are now, but the discussion that came  
2 about was the position of the Cal State system and the  
3 executives there. Where we are at, we ranked really,  
4 really low as far as the compensation. That's the main  
5 thing -- the study that I saw. But, again, at this  
6 point in time, I don't think it's the time to be giving  
7 raises. It doesn't look good, it doesn't sound good,  
8 and it doesn't feel right either, and it has not been,  
9 as far as I know.

0 I know that there were some findings in the  
1 prior audit reports, and I know that we've made  
2 everybody accountable. There's been reports given to  
3 the trustees, and we're making sure that we're staying  
4 on top of that. But I don't know of any raises that  
5 have been given since I've been on there.

6 MR. HAUCK: I don't think in the last year --  
7 there haven't been --

8 If there have been any raises, there have  
9 generally been adjustments when people changed  
0 positions, that they were moved into another position,  
1 or, in one or two cases, there were new hires, and they  
2 were compensated there.

3 Just in -- Senator, I can't respond to those  
4 specific percentages that you cited. We can follow up  
5 with you on that.

67

1 SENATOR OROPEZA: I think that would be great.  
2 I would love to hear some response.

3 MR. HAUCK: I would say just generally, that in  
4 terms of management-level expense, between 2000-2001,  
5 the percentage of management expense at 15.2 has been  
6 reduced in '08-'09 to 12.7 overall in the system. The  
7 chancellor has reduced the number of employees in the  
8 chancellor's office.

9 I think, as an example, in our system with  
10 47,000 employees, there are 102 vice presidents. It  
11 doesn't strike me that -- 100 vice presidents against  
12 47,000 employees is not an outrageous number as far as  
13 percentage of total employees. And, of course, all of  
14 these folks are crucial to the operations of each of  
15 these universities.

16 Our board, I believe, is very sensitive about  
17 executive compensation. At the same time, we feel  
18 strongly that we've got to try to remain reasonably  
19 competitive in the market when we are recruiting for  
20 both presidents, chancellors, and vice presidents.

21 And I can tell you that recently, for example,  
22 we were recruiting for a new president at San Jose  
23 State. Fortunately, we got lucky and were able to hire  
24 someone from Texas who was leaving there for reasons I  
25 won't go into, but he took a cut in pay in order to come

68

1 to San Jose State and live in an area that was much more  
2 expensive.

3 We are going to face this problem in the next  
4 three, four, five years, because we have a number of  
5 presidents that are going to retire. If we don't have  
6 competent people running these -- If we could have  
7 King Alexanders on every one of our campuses, that would  
8 be great. Our problem is going to be hanging on to  
9 King Alexander, because he's becoming a national star,  
10 frankly, and has already been approached and recruited,  
11 and, fortunately, decided to stay with Long Beach State.

12 So we are very mindful of the environment that  
13 we are in. At the same time -- and we're not going to  
14 grant outrageous raises. We don't have outrageous  
15 benefit packages. But we also feel like you've made it  
16 our responsibility to make sure these universities are  
17 well run, and if we don't do that, then you'll be after  
18 us for that.

19 SENATOR OROPEZA: Sure. I'm not  
20 actually referring to the presidents of the campus. I'm  
21 really talking about management, you know, broader than  
22 just the presidents. And I appreciate your response.

23 MR. HAUCK: Okay.

24 SENATOR OROPEZA: Sorry. I got one more  
25 little....

69

1 CHAIRMAN STEINBERG: One more.

2 SENATOR OROPEZA: Did you know -- Did you know

3 that you all hire contract lobbyists along with your

4 full-time governmental affairs lobbyists, with taxpayer

5 money, to kill bills? Did you know that?

6 MR. HAUCK: Yes, I was aware of that.

7 SENATOR OROPEZA: You knew that. What do you

8 think about it?

9 SENATOR AANESTAD: Did they kill the bill?

10 (Laughter.)

11 SENATOR OROPEZA: I don't know. I'm not sure.

12 But I think it's an interesting sort of relationship

13 there, you know.

14 MR. HAUCK: I don't know what the source of

15 funding is. I'll check that with the chancellor.

16 SENATOR OROPEZA: I think it was foundation

17 money. But nonetheless, I'm talking about the

18 institution and the philosophy behind hiring external

19 people, you know, hired guns -- if I told you the names,

20 you'd recognize them easily -- hired guns to defeat

21 legislation, beyond the people that you have which we

22 know about, which are your regular governmental

23 relations staff, which do a fine job educating us about

24 the points of view of the system.

25 I'm just wondering what you all think about it.

1 I don't think a lot about it.

2 MR. HAUCK: I picked that up.

3 CHAIRMAN STEINBERG: Neither do I. I mean,

4 I -- That really wasn't on my radar screen, but that

5 bothers me too.

6 SENATOR OROPEZA: Yeah. It's a weird

7 relationship.

8 CHAIRMAN STEINBERG: Go ahead. What do you

9 think?

10 MR. HAUCK: We'll get back to you on that.

11 Okay?

12 SENATOR OROPEZA: Okay. Fair enough. Thank

13 you.

14 MR. HAUCK: Thank you.

15 CHAIRMAN STEINBERG: Other Senators?

16 SENATOR AANESTAD: Actually, any governmental

17 agency using taxpayer money --

18 CHAIRMAN STEINBERG: Well, you know,

19 interesting. You could ask the same question: What

20 about the League of Cities, or the cities?

21 On the other hand, the CSU system and the

22 U.C. system, they are tied intrinsically to state

23 government.

24 SENATOR CEDILLO: Are they tied any more than

25 law enforcement?

1 CHAIRMAN STEINBERG: Say that again.

2 SENATOR CEDILLO: Are they tied any more than,

3 say, law enforcement, CHP?

4 SENATOR AANESTAD: Firefighters.

5 SENATOR CEDILLO: Firefighters.

6 They have independent lobbyists. Are they tied

7 more than education in general? The LAUSD has a pretty

8 hefty bill for lobbyists, independent, private-sector

9 lobbyists.

10 CHAIRMAN STEINBERG: I love democracy.

11 SENATOR OROPEZA: All these things are a

12 puzzle. After I found that out, I wanted to raise it

13 here.

14 CHAIRMAN STEINBERG: I'm glad you raised it.

15 I think you should get back to us.

16 MR. HAUCK: All right.

17 SENATOR CEDILLO: I think the question the

18 Senator was raising is: What's the distinction? Is

19 there some closeness where maybe it's inappropriate; but

20 then on the other hand, how do we measure who's close?

21 I mean, the CHP has a lobbyist, and they're

22 integral to maintaining public safety on our highways.

23 CHAIRMAN STEINBERG: Well, the CHP -- We know

24 that the CHP officer's union has an outside lobbyist,

25 but I'm not sure that's true of the CHP or other

1 executive departments.

2 SENATOR OROPEZA: They have a governmental

3 relations unit, which is similar to the CSU's unit. But

4 the other folks, the hired guns, are not representing --

5 in this case, as I understand it, are not representing

6 the union representation. They're representing the

7 board and the board's point of view -- I assume the

8 board or somebody at the institution at that level's

9 point of view on legislation. There is a little bit of

10 a difference there. It's a puzzlement to me.

11 SENATOR CEDILLO: Is there a difference without

12 a distinction?

13 CHAIRMAN STEINBERG: To be continued. How

14 about that?

15 Any other questions from the good senators?

16 SENATOR CEDILLO: I was interested in the

17 earlier discussions of what could the state do to get

18 more collaboration between the community colleges and

19 the CSU and the U.C. system.

20 What are the things that you could look to us

21 to unencumber you or enable you to have more

22 collaboration?

23 This is a time where we need really aggressive

24 out-of-the-box thinking, out-of-the-silo thinking, given

25 the economic crisis. Again, the same situation. My



1 sense is that your funding is not the same, or your  
2 ranking and funding is not the same as it was when  
3 Mr. Aanestad attended community college, and yet your  
4 student population is different.

5 It's challenging. You've got displaced  
6 workers, you have training, you have people entering  
7 your system so when they came to graduate, were  
8 admissible but still have challenges, and an incredible  
9 change in our population, English language learning,  
10 people who are in the undocumented population,  
11 extraordinary and talented with tremendous potential,  
12 but still have challenges with language. Speaking  
13 another language is not a measure of talent. Potential  
14 challenges in the environment when people are speaking  
15 another language.

16 MR. HAUCK: Senator, I think that perhaps now  
17 more than at any time before, the three systems are  
18 working together. The CEOs of each of the three systems  
19 have agreed to work together, for example, on community  
20 college transfer, and it's our intent to expand the  
21 scope of the cooperation to a range of issues, including  
22 the one that Senator Steinberg raised.

23 I don't think that we can any longer afford to  
24 let these institutions operate in silos. It's not  
25 efficient, and it's not going to serve the people of

74

1 California well, and it's certainly not going to serve  
2 students well. So I think you can look forward to  
3 much greater cooperation between all three segments, and  
4 I think you can look forward to the three segments  
5 coming to the legislature to answer your question in  
6 terms of things that you can consider doing that you  
7 might not have considered before.

8 For example, we don't have, in this state, a  
9 transfer degree from community colleges. We should. We  
10 should have a transfer degree. If you take the right  
11 units, 60 units, in a community college, you should  
12 first get a degree; and, secondly, they ought to be  
13 transferable to any CSU or U.C. campus in the state.  
14 And that's not true today.

15 We've made some progress. Senator Scott  
16 carried a bill going in that direction, but we need to  
17 go a lot farther in that direction, because we find  
18 community college students transferring to the CSU with  
19 70 or 80 units. They don't need 70 or 80 units to  
20 transfer. And that's expensive. Taxpayers are  
21 underwriting those costs and, more importantly, perhaps,  
22 or as important, a lot of students -- it's taking up  
23 seats with a lot of students. There's been resistance  
24 to that. There's been some faculty resistance to that,  
25 and we may want to ask you to help us with that.

75

1 And there may be a range of other things that  
2 we will come to the legislature with in that respect.  
3 So we would look forward to the support.

4 MR. MENDOZA: As far as for my take, I think  
5 learning the ropes and learning how everything  
6 functions, I'm asking a lot of questions, "Why?" So I  
7 think that right there --

8 SENATOR OROPEZA: Good. Keep asking. Keep  
9 asking.

10 MR. MENDOZA: You know, I think that's the  
11 thing, why we're doing things, and learning the system,  
12 and, I think, making suggestions.

13 I think the question was asked to me by the  
14 staff earlier: What is our role as a trustee? You  
15 know, I've been on a lot of boards and run some pretty  
16 large organizations, and as a board member you do set  
17 the tone of where -- the direction that you want or you  
18 think the organization should go.

19 So I think now is the time, especially the  
20 times that we're in, to think out of the box, to see  
21 what we can do, because there are changing times. We  
22 talked about the demographics. We haven't talked about  
23 it, but our -- you know, what's going on with the green  
24 economy and what's going on with global warming and all  
25 that. It's sparking new industries. It's sparking new

76

1 ways of doing things, the digital age and everything.  
2 It's not the same as it was when I was there 30 years  
3 ago, so I think it's time to look at it.

4 As I'm learning how the systems work together,  
5 I think now is the time that we could help sort of my  
6 suggestions, and as Bill was saying, it should be  
7 working closer. We are going to look into that. I'd  
8 like to see what we can do a little bit to develop the  
9 system.

10 CHAIRMAN STEINBERG: Thank you.  
11 Senator Aanestad.

12 SENATOR AANESTAD: I know you've been very  
13 patient, and I asked you this question earlier this  
14 morning, but I thought your answer was very good, and I  
15 wanted it on the record.

16 And that was: Years ago, your students could  
17 count on graduating from the CSU system in four years,  
18 and by CSU's own acknowledgment it now is taking five or  
19 six years. I know we talked about lack of resources  
20 and, therefore, limited offerings, but you had other  
21 reasons why this might be true, and I would love you to  
22 expound on that.

23 But the ending question is: It still is  
24 expensive for the students and their families to take  
25 that long, and how committed is the board to trying to

77



1 get those students through the system as quickly as  
2 possible?  
3 MR. HAUCK: Well, taking the last first, we're  
4 very committed to that. What I said to you this morning  
5 was: If you look back 30 years, the demographics of  
6 California were much different from what they are today.  
7 In the CSU system, nearly two-thirds of our students are  
8 transfer students from the community colleges. They are  
9 older; they are mostly independent of their parents  
10 financially. Most of them are working; some of them are  
11 married. And all of that kind of folds together to  
12 result in students taking longer, because there are some  
13 semesters when they can't take full academic loads.  
14 But it is important for us to try to move them  
15 through the system as quickly as possible in relation to  
16 the cost and in relation to the workforce.  
17 We do have a few universities in our system  
18 that have been willing to sign a contract with our  
19 students who want to get through in four years, and they  
20 have gotten through as long as they have lived up to the  
21 contract. Sometimes students intend to do something and  
22 discover that for one reason or another, they're not  
23 able to do what they originally intended to do.  
24 But we need to move students through our system  
25 as expeditiously as possible for a whole range of

78

1 reasons. But the profile of a CSU student is much  
2 different from the profile of a University of California  
3 student, which is largely much more the traditional  
4 18-year-old freshman entering college. That's not the  
5 situation in the CSU, and it reflects the changes in our  
6 population.  
7 SENATOR AANESTAD: Thank you.  
8 CHAIRMAN STEINBERG: All right. Thank you very  
9 much, Senator Aanestad.  
10 Are there witnesses in support here?  
11 Come on up, sir.  
12 MR. AYALA: Absolutely.  
13 CHAIRMAN STEINBERG: You might want to take  
14 that mic, if you don't mind.  
15 MR. AYALA: Sure. Mr. Chairman, Members of the  
16 Committee, my name is Joel Ayala. I'm the CEO for the  
17 California Hispanic Chambers of Commerce representing  
18 60-plus Hispanic Chambers of Commerce, 720,000  
19 Hispanic-owned businesses.  
20 I've known Henry for over 20 years now, and  
21 Mr. Hauck by reputation only, but I applaud the  
22 governor's selections today. And it's been brought  
23 forth in front of you. A lot of talk has been going  
24 around about the value of education, and Mr. Chairman  
25 got it right in that the value of education lies only in

79

1 the implementation of what is learned.  
2 And Henry is a self-made man who brings forth a  
3 lot of this -- his education, his experience, and his  
4 implementing at the -- and giving back to the community.  
5 So with that, sir, the California Hispanic  
6 Chambers of Commerce proudly supports Mr. Henry Mendoza.  
7 CHAIRMAN STEINBERG: Thank you very much.  
8 Other witnesses in support? Any witnesses in  
9 opposition to the nominees?  
10 All right. Is there a motion?  
11 SENATOR AANESTAD: So moved.  
12 CHAIRMAN STEINBERG: Moved by Senator Aanestad.  
13 I want to thank you for your public service  
14 during very, very difficult times, and I hope that you  
15 enjoyed the robust conversation here.  
16 And we're serious about what we do, just as  
17 you're serious about what you do, and we do want to hear  
18 back from you and from the chancellor's office about how  
19 we can move in the same direction on some of these  
20 crucial issues that were raised today. But we're happy  
21 to support your confirmations, and we'll move it to the  
22 floor with the requisite number of votes.  
23 Please call the roll.  
24 MS. BROWN: Senator Cedillo.  
25 SENATOR CEDILLO: Cedillo aye.

80

1 MS. BROWN: Cedillo aye.  
2 Dutton.  
3 Oropeza.  
4 SENATOR OROPEZA: Aye.  
5 MS. BROWN: Oropeza aye.  
6 Aanestad.  
7 SENATOR AANESTAD: Aye.  
8 MS. BROWN: Aanestad aye.  
9 Steinberg.  
10 CHAIRMAN STEINBERG: Aye.  
11 MS. BROWN: Steinberg aye.  
12 CHAIRMAN STEINBERG: Thank you very much.  
13 We'll keep the roll open for Senator Dutton,  
14 and we'll move the nominations to the floor.  
15 Thank you both very, very much.  
16 MR. MENDOZA: Thank you.  
17 MR. HAUCK: Thank you.  
18 (Recess taken.)  
19 CHAIRMAN STEINBERG: We're back in order.  
20 I would like to call Hadi Makarechian, who's up  
21 for confirmation as a regent to the University of  
22 California.  
23 Mr. Makarechian, welcome to you, sir.  
24 MR. MAKARECHIAN: Thank you.  
25 CHAIRMAN STEINBERG: Thank you for your

81

1 patience today. I hope you were sitting in the -- you  
2 know, in the soundproof booth back there, that you  
3 didn't hear all the questions we asked of the other  
4 nominees, but I'd like to welcome you.  
5 Is there anyone you want to introduce here  
6 today?  
7 MR. MAKARECHIAN: Thank you, Mr. Chairman, and  
8 thank you, Senators. Yes. My wife of 37 years,  
9 Barbara.  
10 CHAIRMAN STEINBERG: Wow! Welcome to you.  
11 Glad you're here.  
12 MR. MAKARECHIAN: Some people say she's my  
13 second wife, but really she's my first wife.  
14 CHAIRMAN STEINBERG: Uh-oh, you might be in  
15 trouble. I think that was a compliment.  
16 So welcome to you. Would you like to make an  
17 opening statement here about -- Again, what we're  
18 looking for, is, you know, your passion why you want to  
19 do this. It's a ten-year term. It's a very long term,  
20 so please --  
21 MR. MAKARECHIAN: Yes. Thank you very much,  
22 Mr. Chairman, and thank you, Senators.  
23 I came to this country when I was 16 years old  
24 as a foreign student, and at the time I didn't know much  
25 about United States. But I learned English back in my

82

1 country and came in with limited resources, because of  
2 the restrictions on transfer of currency from my country  
3 to the United States, so I had to work my way through  
4 painting houses and tending bars. And I want to tell  
5 you, tending bars was more fun than painting houses. It  
6 gave me much more experience in understanding people.  
7 But toward my experience in the public  
8 sector -- in the private sector, I always wanted to be  
9 of service to the community, and I've always been  
10 involved with nonprofit foundations, as well as I served  
11 on the board of trustees of Chapman University when  
12 Chapman University was very small, and I served on the  
13 real estate committee where my experience was -- I've  
14 been developing many, many different projects all over  
15 the United States, so I always give back to the society.  
16 And one of the reasons I wanted to be part of  
17 the -- This university is the best in the world, best  
18 public university in the world, and perhaps as good as  
19 any of the private universities. Certainly, when you  
20 look at the professors and the faculty, they've won 57  
21 Nobel Prizes, and the university system has the largest  
22 number of recipients of medals in science, and it's the  
23 forefront of any of the research, and highest number of  
24 patents in the United States is received by the  
25 university, as well as on the average, the university

83

1 produces three inventions per day. That's the engine of  
2 the economy for this state as well as the nation.  
3 So it would be an honor for me, if confirmed,  
4 to be part of this university and serve the public and  
5 be a trustee of the people of California.  
6 CHAIRMAN STEINBERG: Thank you, sir.  
7 Senator Oropeza and Senator Cedillo aren't here  
8 either.  
9 Senator Dutton, do you have any questions?  
10 SENATOR DUTTON: No.  
11 CHAIRMAN STEINBERG: Well, we had an  
12 opportunity to meet before, and I really appreciated the  
13 time. And we explored some of the areas that we've  
14 discussed with the nominees for the CSU trustees and the  
15 Community College Board of Governors, and I really want  
16 to ask you the same question.  
17 How can the University of California be more  
18 collaborative than it already is with the other systems,  
19 especially the K-12 system?  
20 MR. MAKARECHIAN: Well, I understand that  
21 that's one of the most important parts of the  
22 university, would be to be able to share their  
23 experience on education, because after all, every one of  
24 them is in the same business of educating and --  
25 although their missions are slightly different. Whereas

84

1 the University of California is mostly -- the mission is  
2 on teaching, research, and public service, but the  
3 public service and the teaching part is always the same.  
4 So the research may be different in the  
5 University of California system than the CSU and the  
6 community colleges, but cultivating the students from  
7 preschool, bringing them up to the university system,  
8 the community colleges, or the CSU system, is one of the  
9 most important things. They have to have some sort of  
10 collaboration. And I know that President Yudof, since  
11 he became president, periodically -- and I think on a  
12 regular basis meets with Chancellor Reed and Chancellor  
13 Scott in just going over the past practices.  
14 And I know that the CTE courses is your  
15 passion, and making sure that we're all working on the  
16 same side of the issues, preparing the students to get  
17 ready for the career, as well as getting ready for  
18 the -- being educated at the university system is one of  
19 the most important things. And in this day and age, I  
20 don't think that they should be wasting any time. So  
21 communication between the universities are one of the  
22 most important parts.  
23 CHAIRMAN STEINBERG: What is your view on the  
24 issue of executive compensation and the University of  
25 California?

85



1 MR. MAKARECHIAN: My -- I come in from the  
2 private sector, obviously. I was CEO of a public  
3 company, and one of the most important things, I think,  
4 is transparency and communication with the general  
5 public, and also the legislature, as to how the  
6 university sets standards for hiring and compensation.  
7 I know that in the past, there have been some  
8 problems in that respect, that the information wasn't  
9 communicated well, but I know that that has changed.  
10 The university now, when they want to hire anybody, they  
11 put it on the Web site prior to actual hiring anybody,  
12 and also they go through extensive research as -- with  
13 the search committee.  
14 But overall, the university's trying to  
15 maintain its standard of being the best in the world,  
16 has to be competitive. And I know recently, there's  
17 been some negative publicity on hiring Chancellor  
18 Hellmann and also Chancellor Katehi at \$450,000 and  
19 \$400,000. Chancellor Hellmann was hired at \$450,000,  
20 but we have to understand that she came from the private  
21 sector, from Genentech, and she was making \$1.6 million  
22 per year. And, in fact, she changed to come and do  
23 public service.  
24 Each of these chancellors are running very,  
25 very large organizations. Both of those schools have

1 medical schools, and the average salary for medical  
2 school -- the average salary for schools with medical  
3 schools nationwide is about \$628,000. So when you look  
4 at the chancellors' salaries, they are well below the  
5 market.  
6 And so I think we have to be competitive, but  
7 in this day and age, everybody has to go to the best, to  
8 get the best people at the lowest price that is  
9 possible.  
10 CHAIRMAN STEINBERG: Let's open it up.  
11 Senators.  
12 SENATOR CEDILLO: What happens if you don't?  
13 If we lock you into a set salary -- We're not sitting  
14 where you're sitting to make the decision on all the  
15 other factors, the competitiveness of the field. What  
16 are the dangers to the system if we do not support your  
17 efforts?  
18 MR. MAKARECHIAN: You mean what happens if we  
19 don't hire them at the levels that is necessary?  
20 SENATOR CEDILLO: If we encumber you and we  
21 limit you, what happens?  
22 MR. MAKARECHIAN: Obviously, you get what you  
23 pay for. That's obvious. Especially when all these  
24 chancellors, all these people that you hire, they could  
25 go anywhere in the world, and now there's -- whether

1 it's private universities or public universities,  
2 especially in the private side, they pay much, much  
3 more, and they tend to take a lot of the -- the best of  
4 the best from the universities.  
5 But the U.C. system has been able to really  
6 attract some of the best of the best in the world at  
7 much lower prices. If you look at the accountability  
8 report that President Yudof has put in place that I  
9 think it's going to be presented to the chancellors in  
10 September, but I've seen some of the preliminary  
11 reports, the university, the staff level as well as the  
12 executives, on the average pays 15 percent less than  
13 their comp stat, which is about 14 universities --  
14 private and public universities in the United States.  
15 So in that respect, they've been very successful.  
16 Again, maybe it's because of the prestige of  
17 the university. Some people will prefer, as an  
18 example -- prefer -- As an example, Chancellor Hellmann  
19 came into UCSF at a much lower salary. It's just the  
20 prestige and public service side that would take that  
21 cut and come in. That's been one of the indicators of  
22 attracting people.  
23 But if it was regulated, I think -- for  
24 instance, if you pass regulations and you can't pay  
25 anybody over \$200,000, I'm not sure what would happen.

1 You would slowly see the slide and all the innovations  
2 and the engine of the economy --  
3 If you look at the U.C. system, biotech, for  
4 instance, started at the U.C. system. Seventy-five,  
5 80 percent of all the people that work in the biotech  
6 industry are graduates or somehow related to the U.C.  
7 system.  
8 CHAIRMAN STEINBERG: Let's follow up. You  
9 know, I don't want to get overly philosophical here. I  
10 do think that -- Greg and I -- Mr. Schmidt -- were just  
11 whispering to each other about sort of the difficult  
12 balance here, and he reminded me that really what's  
13 happened over the years with the U.C. in some ways is  
14 that it's moved from sort of pure public service to more  
15 entrepreneurial. I mean --  
16 And maybe we, as elected officials, are a tiny  
17 bit sensitive on this issue ourselves here. We ought to  
18 admit that -- you know, that bias a little bit. But you  
19 can say what you just said about really most any form of  
20 public service, that, you know, there are legislatures  
21 here that could be making a million dollars a year, a  
22 couple hundred thousand dollars a year, or whatever.  
23 You could say the same thing about other particular  
24 public services, and yet people choose the public  
25 service because there are other rewards. There are the



1 psychic rewards; there are the rewards of being able to  
2 give something back.  
3 So I -- you know, we wrestle a little bit with  
4 the need to be competitive, as you say, but why  
5 should -- If the University of California is the place  
6 that is so well respected and heralded as a place that  
7 you would want to work, why is it that if we limited  
8 salaries to \$200,000, as an example, that there would be  
9 some great brain drain? That may be true, it may be the  
10 reality, but that troubles me. And I know that's sort  
11 of -- we're getting philosophical here, but...

12 MR. MAKARECHIAN: I'm not sure that the  
13 university has lost its public service side, because if  
14 you look at the services that the university provides --

15 The university is the fifth largest healthcare  
16 organization in the United States. It's the largest in  
17 California, and it provides the public -- 3.6 million  
18 people go to the clinics, and majority of those are the  
19 underrepresented or low-income families. So that's on  
20 the healthcare side.

21 If you look at the agriculture, the university  
22 has created some of the best public service on the  
23 agriculture. So the university operates close to 100  
24 libraries. That's 33 million books, larger than the  
25 Library of Congress. And most of the people -- most of

90

1 the people don't know this, that the university is  
2 providing all those libraries that's free to the  
3 majority of -- to all of California.

4 CHAIRMAN STEINBERG: Why should we have to pay  
5 people exorbitant salaries to be part of that wonderful  
6 environment and that wonderful service?

7 MR. MAKARECHIAN: I guess it's return on  
8 investment. If you look at what they give back for what  
9 they get paid for -- for instance, the Chancellor  
10 Hellmann is an example. At Genentech, she was making  
11 \$1.6 million. Was she returning that much to that  
12 company? Obviously, yes.

13 You could pay somebody much less salary to run  
14 a large organization like UCSF, which is about  
15 \$3.3 billion organization -- \$3.3 billion organization,  
16 and if that chancellor made a slight mistake of even a  
17 million dollars, that's a huge -- if she saved just a  
18 million dollars, she made her salary. And I'm sure she  
19 would make much better decisions for the future that  
20 would bring back a multiple of the salary that she's  
21 making.

22 I don't know if I've answered your question. I  
23 guess it's an investment.

24 CHAIRMAN STEINBERG: I don't want to get too  
25 much in the weeds, but --

91

1 SENATOR OROPEZA: I think -- You know, I  
2 understand what you're saying. I think U.C. has done a  
3 lousy job at developing a public perception or  
4 understanding of the rationale, and I think that in some  
5 cases has made it the excuse for a little bit of  
6 overcompensation, in my view, but I do hear your point.

7 I would like to see the U.C. do a better job at  
8 explaining, if you need to pay somebody a premium, then  
9 why is it that you have to pay that person a premium,  
10 because I think if you did more of that, then you might  
11 get at what the chair is calling for a little more, and  
12 that is: What is the value that they are not getting  
13 that a lot of us public servants get, and what are they  
14 now getting that has to fill up that piece of their  
15 salary with money, you know?

16 But you should do a better job, I think. I  
17 think it's one of the big problems of the U.C., and it  
18 becomes a problem for all of us as well up here when we  
19 really don't have a good answer.

20 MR. MAKARECHIAN: Yes, I agree with you. In  
21 fact, I'll be discussing just that, the communications  
22 with outside. In fact, what they have done recently, as  
23 I said, putting the potential hirees on the Web, and  
24 explaining their position and the comp stat that they  
25 have, compensation, so that everybody can see it.

92

1 And also, now, all of the -- all of the senior  
2 management goes through the board for further approval.  
3 Anybody over \$237,000 gets an approval by the board.  
4 And all of those board meetings are open except for  
5 certain candidates where they don't want to disclose  
6 that they may be leaving their jobs from fear of being  
7 fired from their existing positions. Except for those,  
8 almost every one of the discussions is open to the  
9 general public.

10 SENATOR OROPEZA: Is that new?

11 MR. MAKARECHIAN: That's very new, yes.

12 SENATOR OROPEZA: That's a good step.

13 MR. MAKARECHIAN: I'm a recent regent. But, as  
14 I said, I'm coming from the public company side. I used  
15 to be CEO of a public company, so I understand that the  
16 more information you give to the general public, the  
17 less it is you have to explain and the less it is that  
18 they blame you.

19 SENATOR OROPEZA: Absolutely true. Absolutely  
20 true.

21 If there is a legitimate reason, you put that  
22 explanation out there. You're going to be much better  
23 off than doing it the other way.

24 Can I ask a question about something  
25 different --

93

1 CHAIRMAN STEINBERG: Sure can.  
2 SENATOR OROPEZA: -- or do you want to --  
3 CHAIRMAN STEINBERG: No, no, no, but let's wrap  
4 it up if we can.  
5 SENATOR OROPEZA: All right.  
6 Can I ask about the Blue and Gold plan and  
7 if there -- which is the program where if the family  
8 makes less than 60,000, that they basically get their  
9 tuition and fees covered, which I think is a great  
10 policy. I think it's a great step forward.  
11 Is there any other initiatives like that about  
12 providing access for people -- for students of lesser  
13 means but high academic standards to come into the  
14 system?  
15 MR. MAKARECHIAN: Yes. When -- I think it was  
16 my second meeting at the Regents when the issue of  
17 raising the student fees came up to the board, and there  
18 was extensive discussion as to what segment of the  
19 students were being affected by these fee increases, and  
20 how they could afford to pay for it.  
21 One of the most important part of the  
22 discussion of raising the fees was: Let's make sure  
23 that majority of the students get their increases  
24 covered. Now, the increases get covered by the Pell  
25 grants and also the Cal grants. Now, the Cal grants, I

94

1 know the governor and, hopefully, the legislature will  
2 not cut that.  
3 CHAIRMAN STEINBERG: Well, funny you mention  
4 it.  
5 MR. MAKARECHIAN: But, hopefully, that's not  
6 cut. But we think the Pell grant and the Cal grant, and  
7 also the Blue and Gold, and the tax credit, we were  
8 assured that families that make up to \$180,000 per year  
9 combined, you know, husband and wife, per family, which  
10 is about 81 percent of the citizens of California, they  
11 get absolutely zero fee increases. So the fee increases  
12 really affects the families -- And it's not fair to say  
13 that families who make \$185,000, they don't have any  
14 obligations. They probably have the fixed mortgages,  
15 they have the car payments and all that stuff, and it  
16 affects them.  
17 But at least majority of the students, which  
18 is, I think, about 70 percent of the students at the  
19 U.C. system, they get some sort of a student aid. And  
20 that's up to about \$10,000 per year. So those families  
21 are all covered up to \$180,000. And that's 81 percent  
22 of the families -- the citizens of California.  
23 SENATOR OROPEZA: But you're not looking at new  
24 approaches. That feels like it fills up the gap?  
25 MR. MAKARECHIAN: That fills the gap, as I

95

1 said, up to 181,000. Obviously, you can't have  
2 100 percent of the fees to be going back, because then  
3 the fee increases doesn't do anything. But 30 percent  
4 of the fee increases goes back to the student fee aids.  
5 SENATOR OROPEZA: Thank you.  
6 Thank you, Mr. Chair.  
7 CHAIRMAN STEINBERG: Of course.  
8 Witnesses in support? Witnesses in opposition?  
9 All right. Mr. Makarechian, I think you're a  
10 very thoughtful person, and you obviously have taken  
11 this seriously, and I'm confident that you will take the  
12 responsibility of being a regent seriously as well.  
13 I'd like to say here that the confirmation  
14 process, hopefully, isn't the end of your relationship  
15 with the legislature, but, in fact, the beginning of a  
16 relationship. So we would urge you to, again, be  
17 outspoken and to be communicative with us as we face the  
18 challenges ahead.  
19 MR. MAKARECHIAN: You have my promise.  
20 CHAIRMAN STEINBERG: Thank you.  
21 I'll take a motion on the nomination.  
22 Moved by Senator Aanestad.  
23 MS. BROWN: Senator Cedillo.  
24 SENATOR CEDILLO: Aye.  
25 MS. BROWN: Cedillo aye.

96

1 Dutton.  
2 Oropeza.  
3 SENATOR OROPEZA: Aye.  
4 MS. BROWN: Oropeza aye.  
5 Aanestad.  
6 SENATOR AANESTAD: Aye.  
7 MS. BROWN: Aanestad aye.  
8 Steinberg.  
9 CHAIRMAN STEINBERG: Aye.  
10 MS. BROWN: Steinberg aye.  
11 CHAIRMAN STEINBERG: We'll keep the roll open  
12 again for Senator Dutton, but your nomination will pass  
13 to the floor of the State Senate. It will be taken up  
14 soon.  
15 MR. MAKARECHIAN: Thank you, Mr. Chairman.  
16 Thank you, Senators.  
17 CHAIRMAN STEINBERG: Thank you very, very much.  
18 We really appreciate it.  
19 (Thereupon, the Senate Rules Committee hearing  
20 adjourned at 4:39 p.m.)  
21  
22  
23 --o0o--  
24  
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97



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I, INA C. LeBLANC, a Certified Shorthand Reporter of the State of California, do hereby certify that I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, INA C. LeBLANC, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 15<sup>th</sup> day of June, 2009.



INA C. LeBLANC  
CSR No. 6713

--o0o--

APPENDIX





**Geoffrey L. Baum**

California Community Colleges Board of Governors

Senate Rules Committee Confirmation Hearing Question responses

May 26, 2009

**1. Please provide a brief statement outlining the goals you hope to accomplish while serving as a member of the Board of Governors. How will you measure your success?**

It is an honor to work on behalf of students and communities across the state as a member of the California Community Colleges Board of Governors and at Pasadena City College, where I have served as an elected trustee since 2001.

My father is an immigrant. He came to this country without knowing English. He grew up sleeping on a sofa in a one-bedroom apartment in a working class part of New York where his father worked in a restaurant. Fortunately, my dad found a technical college, Brooklyn College of Pharmacy, and found a career that enabled him to support our family.

My mother grew up in the Midwest. She was married and divorced at 20. She married again, divorced and was a single mom with two sons at 28. She married my dad a year later and had two more kids. (Thankfully, they're still together.)

She loved learning, but her life situation did not enable her to go to college until the family moved to Southern California in the early 1960s. In Orange County, she found the local community college, Golden West College. Once she had access to a college education, there was no stopping her. She enrolled in classes and pursued her educational dreams.

With an earnest desire to serve and gratitude for the opportunities they had been given, my parents both got involved in politics. My dad was elected mayor of our hometown. Years later, my mom was elected to the Coast Community College District Board of Trustees.

That is the environment in which I was raised. I have seen firsthand the power of education to transform lives. And I see it every day on the campus of Pasadena City College and at campuses across the state.

With nearly 3 million students, ours is the largest system of higher education in the world. The Board of Governors sets policy and provides guidance for the 72 districts and 110 colleges which constitute the system. We establish accountability standards, monitor performance and are the entity that formally interacts with state and federal officials.

We also select a chief executive for the system. Our new state chancellor is former PCC president and California State Senator Jack Scott and I am doing everything I can to support his work guiding the statewide system.

Much of my focus is on the economy. With record levels of unemployment, home foreclosure, and business failure, the demand for education and training has never been greater. Working

Senate Rules Committee

MAY 27 2009

## **Geoffrey L. Baum**

California Community Colleges Board of Governors

Senate Rules Committee Confirmation Hearing Question responses

May 26, 2009

closely with my colleagues on the Board of Governors, I support the role of community colleges as the state's Economic Recovery Centers.

As with any disaster, members of our community must have access to resources and support in order to recover from this current crisis and get our economy moving again.

One paradox is that we know where the jobs are. And we have outstanding students eager to get the training and skills for new careers. But there is a shortage of access. We will continue to serve as many students as we can with the resources we have and hope we can find ways to serve the avalanche of newly displaced workers who need help.

Through my service on the Board of Governors, I hope to be an effective advocate for California Community Colleges, maintain and strengthen the system of accountability that builds public trust, and work effectively with our partners in the system—faculty, staff, administrators, students and others—to expand access to affordable, high-quality instruction, especially during this time of economic crisis.

I will measure success by the number of students we serve, the success of students in completing courses with passing grades, the number of programs offered by colleges to respond to needs in their communities, the number of certificates awarded in career and technical education programs and the number of students who are prepared and successfully transfer to the University of California, California State University and California's independent colleges and universities.

**2. *As a board member, what training have you received for your position? What conflict-of-interest training have you received? From whom do you seek advice on potential conflicts?***

I have devoted my professional career and community service career to higher education.

Since 2001, I have served as an elected governing board member of the Pasadena Area Community College District, which includes Pasadena City College (PCC). For three years, I was a board officer and served a term as president. PCC is widely regarded among the very best community colleges. It ranks at or near the top in virtually every category, including

- Transfer to 4 year colleges.
- Awarding of associates degrees.
- Career and technical education certificates awarded.

In addition, I am a member of the leadership team at the University of Southern California. From 2001-2008, I was assistant dean of the USC Annenberg School for Communication. Currently, I

## **Geoffrey L. Baum**

California Community Colleges Board of Governors

Senate Rules Committee Confirmation Hearing Question responses

May 26, 2009

serve as managing director of USC's Center on Communication Leadership & Policy. During the 1990s, I was assistant vice president of Claremont McKenna College in Claremont.

As a community college trustee, I participate annually in professional development programs offered by the Community College League of California and the Association of Community College Trustees. Workshops I have taken include *Trusteeship: Roles & Responsibilities* and *Boardmanship 101- Focus on the Fundamentals of being an Effective Trustee*, both of which include a specific focus on conflicts of interest.

Regarding potential conflicts, I have sought advice from the chancellor and the executive vice chancellor of California Community Colleges, the counsel of the Pasadena Area Community College District, and the president of the Board of Governors and the president of the Pasadena City College Board of Trustees.

**3. *California's community colleges serve every region of the state. In a difficult economy and at a time of state budget reductions, how do you, as a member of the Board of Governors, help the community colleges maintain their critical role in California's higher education system?***

Among the several steps to be taken:

1. Be an effective advocate for California Community Colleges within local communities and with statewide and federal policymakers
2. Support, maintain and strengthen the system of accountability that builds public trust
3. Work collaboratively with our partners in the system, including faculty, staff, administrative leadership and students
4. Support the work of the Chancellor and the system office to foster greater coordination and collaboration between individual districts and across all segments of education from K-12 to research universities.
5. Support the work of the Foundation to raise private financial support for California Community Colleges
6. Be honest in all dealings and acknowledge shortcomings when warranted.

**4. *Should there be a long-term community college student fee policy? If so, what should its key features be?***



## **Geoffrey L. Baum**

California Community Colleges Board of Governors

Senate Rules Committee Confirmation Hearing Question responses

May 26, 2009

The mission California Community Colleges is to provide affordable, high quality instruction for all Californians who seek access to higher education. Student fees must not be a barrier to access.

Previous fluctuations in fees have placed a significant burden on students and districts, with a disproportionate impact on low-income students.

I support current policy, which directs that fees be low and predictable. Moreover, there must be access to financial aid that is sufficient to meet the needs of students and prevent the cost of college from being a barrier to access.

Given the current fiscal crisis, I anticipate an increase in student fees. As stated above, any increase must be measured and predictable.

**5. *What are colleges doing to ensure that students maximize their use of federal aid for which they are already eligible? How is the board kept informed of districts' outreach and technical assistance activities geared toward informing students of their financial aid opportunities? How do you weigh in if you believe more should be done?***

Student fees for community college students in California are the lowest in the nation by a significant margin. Fees are so low that tens of millions in federal aid to California has gone unclaimed. On the other hand, recent changes in federal tax policy allow tax credits to be claimed for books and supplies.

Supplemented by annual state funding (\$37 million), districts provide counseling and conduct outreach campaigns to alert students about the availability of financial aid. A portion of the state funding has also supported the "I Can Afford College" statewide media campaign organized by the Chancellor's Office.

Among other activities, districts encourage students to complete the Free Application for Federal Financial Aid (FAFSA). Currently, nearly 80 percent of students who receive a Board of Governors fee waiver also file the FAFSA. Due to these outreach activities, California participation in the Pell Grant program has grown by 30,000 students (12.6 percent) in the past five years.

System office staff keep the Board of Governors informed about students' access to and use of various financial aid programs. As a Pasadena City College trustee, I also receive regular reports on financial aid outreach and activities conducted within my district.

## **Geoffrey L. Baum**

California Community Colleges Board of Governors

Senate Rules Committee Confirmation Hearing Question responses

May 26, 2009

- 6. *The community college system offers a variety of recreational and personal enrichment credit courses to students, all funded at the same per-student funding rate (about \$4,600 per full-time equivalent student in 2008–09). The Legislative Analyst’s Office has recommended reducing the funding for credit-bearing physical education and enrichment classes to the regular noncredit rate. Given the current budget limitations, what are your views regarding this proposal?***

The system and individual districts must remain accountable for the funding received for instruction. Generally, credit courses are offered that have specific links to transfer, degree or certificate programs. That includes courses offered in physical education and other divisions that may be considered “recreational” or for “personal enrichment.”

For example, virtually all courses within Pasadena City College’s division of Kinesiology, Health and Athletics are rigorous and qualify for transfer credit. Other courses are offered to help students pursue careers in growing employment sectors, such as physical therapy and sports medicine. In my experience, I have found these courses to also help provide a well-rounded experience and foster student retention. There would need to be a careful examination of what courses the LAO considers purely “recreational and personal enrichment.”

- 7. *How does the board monitor and determine whether community colleges are responding to local education and workforce training needs? In your view, what policy initiatives or programs are critical to supporting the capacity of community colleges to meet California’s workforce needs?***

The Board of Governors receives regular reports on economic and workforce development programs that measure progress based on specific objectives. This information is also reported to the state legislature. The system also requires each of the initiatives to conduct a Strategic Review every five years to assess the effectiveness of the initiative and evaluate the need for continuing funding and support.

Statewide and individual district performance is also evaluated annually through the Accountability Reporting for Community Colleges (ARCC), which measures student progress and achievement in vocational, occupational and workforce development programs.

During the current economic crisis, we must remain focused on providing access to effective workforce training programs. The demand for educational services has never been greater as Californians turn to community colleges as the state’s Economic Recovery Centers.

Through the Board of Governors, we need to encourage and facilitate access to stimulus funding and other forms of federal support for workforce development programs. We need to continue to

## **Geoffrey L. Baum**

California Community Colleges Board of Governors

Senate Rules Committee Confirmation Hearing Question responses

May 26, 2009

monitor the effectiveness of various programs and encourage innovation in new areas where we anticipate job growth.

- 8. *Enhancing relevance in education and providing students multiple options for success are crucial for curbing dropouts and, at the same time, meeting the needs of our economy. What is the Chancellor's Office doing to encourage community colleges to work with their local high schools to ensure that students have increased access for career development and college preparation courses? What is the Chancellor's Office doing to improve career pathways and linkages between K-12 and community college career development programs?***

The first goal articulated by the system strategic plan (adopted in 2005) is COLLEGE AWARENESS AND ACCESS. As the plan states, "Stronger outreach to a growing population is critical to the development of the educated and talented workforce California needs to remain a competitive economic leader." The first step in achieving the goal is "Early Awareness of College as a Viable Option." The chancellor's office and the system actively encourage early awareness of the Community Colleges as an option and the need for K-12 students and parents to prepare for college success.

Mindful of past issues with concurrent enrollment, the system is examining ways to facilitate access to college for high school students, including early to college high school programs. The system must continue to encourage articulation agreements that facilitate student access and offer consistency across the state.

At Pasadena City College, we have made it a priority to work closely with our K-12 feeder districts, including the Pasadena Board of Education, to conduct outreach, partner on broad variety of educational programs and seek resources to better serve students.

- 9. *Governor Schwarzenegger signed SB 70 (Scott), Chapter 352, Statutes of 2005, to expand career technical education (CTE) instruction and enhance partnerships between secondary and postsecondary CTE programs. Please provide a status update regarding the CTE Pathways Initiative. How does the board monitor progress?***

I was honored to be present for the signing of SB 70 at Pasadena City College. The bill, authored by Senator Scott, provides a significant investment in Career Technical Education (CTE) and strengthens the partnership between community colleges and high schools to improve and expand CTE programs in California.



## **Geoffrey L. Baum**

California Community Colleges Board of Governors

Senate Rules Committee Confirmation Hearing Question responses

May 26, 2009

The primary goal of the legislation is to develop new programs and build partnerships between California's K-12 schools and community colleges so that CTE curricula are in alignment and of maximum benefit to students.

The program was funded at \$20 million in 2005-06 and in 2006-07. In 2007-08 funding was increased to \$41 million. In 2008-09 funding was \$58 million. Since the inception of the program, the total number of grants awarded has increased to just over 400. Every region in the state has received at least one grant.

The CTE Pathways Initiative awards about 200 grants annually in five broad categories. For 2008-09, competitive grants were awarded in:

- Career Planning and Development & Career Pathways and Articulation (approximately 100 projects )
- New Program Development (approximately 55 projects)
- Expanding Business and Industry Engagement in CTE (approximately 10 projects)
- CTE Teacher Recruitment and Professional Development (approximately 20 projects)
- Capacity Building and Research and Evaluation (1 project)

Outcomes to date include hundreds of new courses and enrollment opportunities for K-12 and community college students, professional development for faculty, and re-invigorated industry connections to key occupational preparation programs.

The Board of Governors receives regular reports from the Chancellor and system partners about progress in all aspects of career technical education.

**10. *There have been reports that the implementation of the SB 70 CTE funds have been inconsistent across school districts and local community colleges. Have you found this to be the case and, if so, what can be done to improve collaborations to expand CTE programs in California?***

I am not familiar with the reports about inconsistent implementation of SB 70 funds. However, some districts may have received earlier funding due to their existing capacity and preparation to launch programs that met the requirements of the legislation. Now that effective models have been identified and developed, districts across the state are receiving funding to fulfill the intent of the legislation.

The Chancellor's Office is fostering partnerships among K-12, community colleges and local businesses to provide programs that meet the needs of students and employers. These CTE Community collaboratives can be found at districts across the state. In a typical example, one CTE Community collaborative features partnerships among the colleges of Cerritos, Compton

## Geoffrey L. Baum

California Community Colleges Board of Governors

Senate Rules Committee Confirmation Hearing Question responses

May 26, 2009

and El Camino to develop, improve, and expand highly visible, high impact curriculum that provides opportunity for 7th and 8th grade students to explore career technical education pathways and programs including apprenticeship in the 15 California industry sectors.

There must be ongoing review and assessment of these programs. On balance, I believe the program is been a success. The Board of Governors should continue to encourage active partnerships among K-12 districts, employers and community colleges to provide effective pathways to education, training and employment.

**11. *Recently, the state has provided supplemental funding for nursing programs. How is the board kept informed of the effect of supplemental funding on the enrollment and retention of students in community college nursing programs? What direction is being provided to local community college districts regarding the sustainability of these programs when supplemental funding decreases or is eliminated?***

The Board receives reports from the Chancellor about the impact of supplemental funding on the enrollment and retention of students in nursing programs.

Currently, such funding includes:

- \$22.1 million of Proposition 98 funds in the Budget Act of 2008
- \$14 million to further expand community college nursing slots
- \$8.1 million to provide diagnostic and support services to reduce student attrition.
- \$6 million (\$30 million over five-years) in federal Workforce Investment Act (WIA) funds

Enrollments have increased by nearly 50 percent over the past four years due to new programs, expansion of enrollment capacity through industry partnerships, and federal- and state-funded programs and grants. Currently more than 13,000 FTE nursing students are enrolled at 74 community colleges across the state. 61 colleges received supplemental grants to expand enrollments.

In the current economic climate, every college is making plans on how to respond to anticipated budget cuts. Districts are encouraged to build public-private partnerships to increase nursing enrollment capacity and develop alternative sources for supplemental financial support. However, this will provide a fraction of the support needed to sustain programs across the state.

One interesting development. At our last Board of Governors meeting, it was reported that an unanticipated consequence of the economic downturn was a slowdown in the rate of retirement among nurses. We will monitor that possible trend and see how it impacts the need for expansion of nursing programs.

## **Geoffrey L. Baum**

California Community Colleges Board of Governors

Senate Rules Committee Confirmation Hearing Question responses

May 26, 2009

- 12. *How should the community college system propose to align its educational and career development programs with the needs of the green collar workforce? Is this an issue area on which your board provides guidance? If not, do you believe it should, and how?***

Community colleges provide workforce training in emerging fields, including the transformation of manufacturing, construction, transportation, trade and other industries into “green” industries. Through grant funding and other programs, the system will continue to support district and statewide efforts to develop and expand career technical education programs for green collar jobs.

The system should continue to support federal funding for green collar workforce development and facilitate local district efforts to obtain funding and expand programs.

- 13. *The Legislative Analyst’s Office indicates that the American Recovery and Reinvestment Act will provide California with an additional \$494 million in Workforce Investment Act funds for employment and training purposes. Community colleges will be able to compete for contracts to provide job training and other services to job seekers and employers. Is the board kept informed of districts’ efforts to obtain workforce development funds? If so, how? Is the Chancellor’s Office providing direction to districts in their efforts to compete for funds?***

The Chancellor, the Governor and the Economic Recovery Task Force have been proactive in positioning community colleges to take full advantage of the funding from the American Recovery and Reinvestment Act. The Chancellor has issued statewide memoranda outlining opportunities and guidance on how to pursue funds. These messages have also cited specific examples of effective collaborations and partnerships with local workforce investment boards.

In one example, on May 28, I am chairing the San Gabriel Valley Federal Stimulus Collaboration Summit to encourage partnerships among local governments, public educational institutions, industry, non-profit organizations and the regional Workforce Investment Board. Representatives from the Chancellor’s office will be on hand to offer guidance and support in order to compete for WIA funds for employment and training purposes.

The Chancellor actively encourages districts to take advantage of funding opportunities in their area so that workforce partners turn to community colleges as the preferred training and education provider.



## **Geoffrey L. Baum**

California Community Colleges Board of Governors  
Senate Rules Committee Confirmation Hearing Question responses  
May 26, 2009

The Chancellor's office provides reports to the Board of Governors about progress and activities in this area.

**14. *What steps is the board taking to ensure that more community college students are completing basic skills classes? How does the board determine that colleges are taking sufficient steps to track students' progress? Please provide us with any data the board has on completion of basic skills classes.***

Too many California students lack basic skills needed to successfully complete college-level work. Basic skills education has been a top priority for the Board of Governors. It is critical for students to have access to basic skills and ESL training in order to progress in any other program of higher education.

Among other steps, the Board supports the redirection of \$33.1 million toward efforts made by colleges to achieve increased success of students who need to improve performance in ESL and/or basic skill areas. In order to receive the funds, each college must submit an Action and Expenditure Plan as well as expenditure reports throughout the year. The Chancellor's Office tracks expenditure of funds allocated and reports to the Board of Governors.

Tracking student progress on a system-wide basis is conducted annually through the Accountability Reporting for Community Colleges (ARCC). The 2009 ARCC report provides data on the annual number of credit basic skills improvements and the number of students completing coursework at least one level above their prior basic skills enrollment within a three-year period.

At our January 2009 meeting, the Board of Governors reviewed the system plan to enhance accountability for basic skills education.

The expanded accountability framework for annual evaluation of ESL & Basic Skills will include

- Student headcount (by ethnicity, gender and age)
- Number of sections of ESL and Basic skills offered
- Number of nonexempt students who are assessed
- Persistence of basic skills students from fall to spring and fall to fall, and
- Student progress which tracks a cohort of students over eight years through ESL and basic skills sequences to degree applicable courses.

This additional data will be available in our next annual report.

## **Geoffrey L. Baum**

California Community Colleges Board of Governors

Senate Rules Committee Confirmation Hearing Question responses

May 26, 2009

**15. *What strategic direction is the board providing the Chancellor's Office in dispersing funds specifically set aside for basic skills education? How does the board ensure that districts are using these funds to target the least-prepared students?***

The Board directs the Chancellor's office to follow Budget Act language regarding allocation of basic skills education funds and the categories of expenditure that are permitted.

In order for colleges to receive funds, they must submit an Action and Expenditure Plan and submit expenditure reports that indicate in which categories expenditures have been made.

Appropriate categories of expenditure are:

- Program and curriculum planning and development
- Student assessment, advisement and counseling services
- Supplemental instruction and tutoring
- Articulation
- Instructional materials and equipment

The goal is to support all underprepared students.

Beyond budget disbursement, the Chancellor's Office needs to continue to identify and promote practices with demonstrated high effectiveness, such as innovative program structures, peer support and individual counseling. The Chancellor must also take leadership to acquire funding to implement the approaches necessary to reach students who need basic skills education.

**16. *What is the board doing to encourage colleges to work with K-12 schools to align educational standards, assessment, and course work that will better prepare students for successfully completing a community college education?***

As stated in the system strategic plan, "More than half of entering Community College students require some sort of basic skills education, due in part to the fact that K-12 curriculum and assessments do not always adequately prepare students for college level work. The Plan recommends that College requirements be reflected in high school curricula, that high school students and their parents have clear understanding of what it takes to succeed in college, and that the Colleges work toward increased alignment with K-12, noncredit programs, and adult schools."

Early assessment is one key step in fostering student success.

## Geoffrey L. Baum

California Community Colleges Board of Governors  
Senate Rules Committee Confirmation Hearing Question responses  
May 26, 2009

In 2007, the Board directed the Chancellor to work with the appropriate parties to begin the process of implementing a system-wide common assessment mechanism. A report with recommendations from the Consultation Task Force was delivered in 2008. The Early Assessment Program is a first step in addressing college readiness. The system plans to implement EAP across institutions and in coordination with the California State University.

In addition, the Board supports California's participation in the American Diploma Project, a national effort to improve coordination and alignment of educational standards between K-12 and college.

More needs to be done to strengthen coordination between educational segments, including K-12 and four-year colleges and universities.

**17. *Currently, all districts determine their own academic standards, which can vary in academic rigor from campus to campus. Assessment and placement are voluntary as well, as practiced at many colleges across the system. Is the board encouraging colleges to use the existing EAP tests to assess college readiness? Do you believe there is a role for the board in addressing assessment and placement policies? If so, what should it be?***

One of the great strengths of the community college system is that districts are governed locally. At Pasadena City College, we have a seven member board of trustees elected every four years. Local control means that residents and employers have a greater impact on the work of local colleges than any other educational segment. They ensure that programs are offered that meet the needs of local communities in economic development and educational access.

The need for systemwide standards, though, is apparent. The Board of Governors supports community college participation in the Early Assessment Project initiated by California State University and California high schools.

As mentioned in the previous response, the Board is focused on assessment and course placement as critical components of student success.

One system task force has endorsed related work being done by the state Academic Senate to pursue regulatory changes that will enable prerequisites to be developed for more content-area courses in order to direct students to successfully complete basic skills instruction first.

The task force is also considering changes that would amend the "50% Law" (that requires at least 50% of college revenues to be spent on classroom instruction) to enable colleges to increase the number of counselors to help students understand and address their educational challenges. The student to counselor ratio in the system has been estimated at 1,900:1.



## **Geoffrey L. Baum**

California Community Colleges Board of Governors

Senate Rules Committee Confirmation Hearing Question responses

May 26, 2009

Second only to quality instruction, I strongly believe access to counseling is the most important factor in student success. This is particularly true for low-income and first-generation college students. The Board has prioritized additional funds for counseling in its annual budget request for the last several years.

***18. How does the board evaluate the quality of student services in its colleges that would boost transfer rates? How can matriculation programs and counseling services better target student populations with the poorest outcomes? What can be done at the board level to improve colleges' efforts if the board determines it is needed?***

Transfer readiness and increasing transfer rates are a priority of the Chancellor and the Board of Governors. Through Accountability Reporting for California Community Colleges (ARCC), the Board, System and individual districts measure student progress and achievement with transfer to California State University, University of California, in-state private and out-of-state 4 year colleges and universities.

Access to academic counseling is a critical factor in student success. This is particularly true for low-income and first-generation college students. I have firsthand experience with this issue. At USC's Annenberg School, where I work, we made a strategic decision to invest in academic counseling. We require graduate and undergraduate students to develop an academic plan and personally meet with their advisor at least once a semester. The results have been successful and the Annenberg School consistently has the top student retention among schools at USC. This is a significant investment as we have more than a dozen counselors for the 1,800 students at USC Annenberg.

Currently, the community college system student to counselor ratio is estimated at 1,900:1. The Board of Governors has prioritized additional funds for counseling in its annual budget request for the last several years.

In addition, I support consideration of a modification to the "50% Law" that would acknowledge the importance of counselors and librarians to instruction and student success. We also need to develop and direct more resources to student counseling.

The Chancellor's Office has begun implementation of comprehensive Student Services site reviews at colleges about to undertake their self-study for accreditation. The reviews are conducted by peer teams that include a Chancellor's Office staff person and representatives of several categorical programs (EOPS, CARE, DSPS, CalWORKs and Matriculation) led by a Chief Student Services Officer.

## **Geoffrey L. Baum**

California Community Colleges Board of Governors

Senate Rules Committee Confirmation Hearing Question responses

May 26, 2009

The reviews focus on the effective deployment of student services on each campus to coordinate with instruction and focus on student success. The second full year of reviews has just been completed and about 40 colleges have now gone through the process.

**19. *How is the Chancellor's Office assisting community colleges in meeting the educational and career planning needs of veterans returning to college? In your view, what assistance should the Chancellor's officer provide? Do campuses have sufficient resources to counsel and advise veterans?***

With the influx of new veterans returning from the wars in Iraq and Afghanistan, California's community colleges are experiencing increased veteran enrollments statewide. Many of these men and women enroll in community college for its open access, array of educational pathways, and the availability of support services to help them with their unique needs.

Every college has a Veterans Office, sometimes within the Admissions Office and often within the Financial Aid Office. With 110 colleges covering the state geographically, the California Community College System is uniquely positioned to assist veterans to prepare for and achieve a successful post-service transition into civilian life.

As part of the effort to help the colleges prepare for the anticipated increase in returning veterans, the Chancellor has been working with various stakeholder groups and colleges throughout the state to expand outreach programs, academic advising and financial aid advising to veterans.

To increase the system's understanding of serving veterans with disabilities, the Chancellor is coordinating efforts with the California Association for Postsecondary Education and Disability (CAPED). In addition, the Chancellor has identified several effective community college programs that serve veterans and has promoted these models to other colleges.

The System Office has worked diligently to increase the colleges' awareness of the needs of returning veterans, establish statewide communication mechanisms, and provide needed technical assistance. Among several steps, the Chancellor's Office has:

1. Established a statewide directory of all Veterans Certifying Officials to increase communication with those who are often the first point of contact for these populations;
2. Developed a Troops to College web page on the System Office website;
3. Presented at conferences for California community college administrators and student service professionals on how to best meet the needs of these populations, including the sharing of innovative practices;

## **Geoffrey L. Baum**

California Community Colleges Board of Governors

Senate Rules Committee Confirmation Hearing Question responses

May 26, 2009

4. Established a Veterans Regional Representatives committee to advise the System Office on veteran issues and local college needs for support and advocacy;
5. Provided technical assistance to the colleges on the implementation of requirements outlined in Senate Bill 272 (Runner, 2008) that provides priority registration to recent veterans;
6. Increased the number of students who are using their GI Bill benefits to attend a California community college from 15,600 in 2006 to 16,200 in 2007;
7. Participated in the "Hire a Hero, Hire a Vet" effort to facilitate employment of veterans throughout California; and,
8. Worked to secure a federal earmark to help fund the coordination of these efforts within the California Community College System.

I have witnessed these efforts firsthand through programs at Pasadena City College. On May 15, 2009, PCC hosted "The Road Home," a symposium to increase awareness and provide insight about the unique issues facing veterans transitioning from combat to college. The program was designed to foster greater collaboration among colleges, communities and veteran service providers.

By raising awareness of veteran's issues and needs, PCC and other colleges are better prepared to facilitate veteran's re-entry to civilian and college life, and create a more supportive educational environment. The symposium was attended by more than 200 administrators, faculty and staff from a range of academic disciplines, counselors and staff from student service programs, College Veteran Program coordinators and administrators, Disabled Student Service Program staff, and instructors and coordinators of student success programs.

These activities undertaken by the Chancellor's office have not been sufficiently funded, nor are there enough resources to counsel and advise all returning veterans. We will continue to advocate for additional resources at the local, state and federal level to serve veterans.



1. The first part of the document discusses the importance of maintaining accurate records of all transactions and the role of the accounting department in ensuring the integrity of the financial statements. It also highlights the need for transparency and accountability in the reporting process.

2. The second part of the document outlines the various methods used to collect and analyze data, including surveys, interviews, and focus groups. It emphasizes the importance of using a mix of qualitative and quantitative techniques to gain a comprehensive understanding of the research topic.

3. The third part of the document presents the results of the study, which show a significant correlation between the variables being investigated. The findings suggest that there is a need for further research in this area to explore the underlying causes and potential solutions.

4. The fourth part of the document discusses the implications of the study for practice and policy. It suggests that the findings can be used to inform decision-making and to develop strategies to address the identified issues.

5. The fifth part of the document concludes the study and provides a summary of the key findings. It also acknowledges the limitations of the study and suggests areas for future research.

Confirmation Hearing Appointment to the  
Board of Governors of the California Community Colleges

**Responses by Scott Himmelstein to Questions by the Senate Rules Committee**

1. *Please provide a brief statement outlining the goals you hope to accomplish while serving as a member of the Board of Governors (BOG). How will you measure your success?*

I want to use my experience working in the Governor's office and with the Legislature to help create policy and funding streams that bring about a wide range of opportunities for students and benefits for California's economy. Specifically, I am interested in increasing the capacity and improving the quality of career and technical education in our system. I believe we need to improve the quantity and quality of our relationships with K-12 education and the business sector. Toward that end I have invited a coalition of California Chambers of Commerce to address the BOG in the summer on ways to further engage business organizations to promote and help resource career technical education. Now more than ever we need to find ways to leverage resources both human and monetary to create seamless pathways of study and career exploration from middle school through community college or other post secondary and career options.

2. *As a board member, what training have you received for your position? What conflict-of-interest training have you received? From whom do you seek advice on potential conflicts of interest?*

I participated in ethics training while a state employee in the office of the Secretary of Education. In addition, I have received similar training with my current employer, the University of San Diego. I also have been counseled by the Chancellor's Office staff regarding conflict of interest issues. If I have a concern regarding conflict of interest pertaining to the BOG I seek advice from the Chancellor's Office legal staff.

3. *In a difficult economy and at a time of state budget reductions, how do you, as a member of the Board of Governors, help the community colleges maintain their critical role in California's higher education system?*

We are in such a difficult time economically that I think my position on the BOG can best be used to promote how community colleges are a big part of the solution to the current situation we are in. We need to communicate to the public and those that are in need that community colleges are where you can turn for job retraining and those looking to upgrade skills or acquire certification. As cost at four-year universities continue to rise community colleges still remain the most accessible and affordable option for students pursuing higher education. Having been in a high profile position and with excellent contacts statewide I believe I can be a

**Senate Rules Committee**

considerable asset in accomplishing this objective. The more the public, business and students know about the value community colleges offer the better they will be able to maintain their critical role in California's higher education system.

4. *Should there be long-term community college student fee policy? If so, what should its key features be?*

I believe the policy adopted by the BOG in 1987 and reaffirmed numerous times since is the appropriate policy. The community college system was built on the premise that fees should be low and reasonably predictable thereby insuring student accessibility. The current policy reflects that stance and provides the opportunity for modest adjustments as economic conditions change.

5. *What are colleges doing to ensure that students maximize their use of federal aid for which they are already eligible? How is the board kept informed of districts' outreach and technical assistance activities geared toward informing students of their financial aid opportunities? How do you weigh in if you believe more should be done?*

The BOG strongly supports strengthening financial aid information and outreach to students.

With funding provided by the state, colleges have improved their financial aid outreach and delivery. Since 2003 colleges have seen significant increases in student completion of the Free Application for Federal Financial Aid (FAFSA). 80% of students who receive a BOG waiver now also file a FAFSA. In addition, participation in the Pell Grant program has grown by 12.6 % over the past five years. 10% of the above mentioned state funding is used by the system office to support the "I Can Afford College" statewide financial aid media campaign that supports and complements local college outreach efforts. I think it is important that the BOG continue to receive regular reports on the status of these efforts and that we verify by questioning staff, students and administrators as to the efficacy of our financial aid outreach programs.

6. *The Legislative Analyst's Office has recommended reducing the funding for credit-bearing physical education and enrichment classes to the regular noncredit rate. Given the current budget limitations, what are your views regarding this proposal?*

The magnitude of our fiscal situation requires that we look at all the ways we are allocating dollars for educational purposes. This specific recommendation I believe requires further study as lowering the funding rate would surely reduce the availability of classes to students. Many PE courses are linked to specific certificate and degree programs and are included in specific transfer pathways that lead into four-year programs. Some CCC PE courses are "adaptive" and represent significant training and opportunity for the state's disabled population. I would



need to better understand how many students would be affected, the number of career paths possibly interrupted, as well as the impact upon the disabled student population before I could endorse or oppose this recommendation.

7. *How does the board monitor and determine whether community colleges are responding to local education and workforce training needs? In your view, what policy initiatives or programs are critical to supporting the capacity of community colleges to meet California's workforce needs?*

Since workforce development and training is such a significant piece of what community colleges provide, BOG members are regularly briefed by staff. We also hear from various constituent groups about the performance of the colleges in this area. The system Economic and Workforce Development programs are mandated to collect, report, monitor and evaluate each of the Industry Initiatives based on specific performance objectives. This information is annually reported to the Governor and the Legislature. Policy initiatives that I believe are critical in this area include the BOG oversight of SB70 dollars which require partnerships with local business, K-12 and higher education to create pathways into the workforce reflecting local needs. The BOG should continue to provide regional approval of new programs based on how well these programs address labor market demand. We should also ensure that the Chancellor's Office is continually monitoring emerging trends in workforce training and provide that information throughout the community college system. The BOG should also reach out to the business community. To that end I have invited a coalition of California Chambers of Commerce to address and interact with the BOG at our next meeting. This group is very interested in working with the BOG to find more ways to connect business and education to increase the capacity and improve the quality of CTE programs in the state. I believe groups like this can be very helpful to us in developing courses that are relevant and provide opportunities for students in the workforce.

8. *What is the Chancellor's Office doing to encourage community colleges to work with their local high schools to ensure that students have increased access for career development and college preparation courses? What is the Chancellor's Office doing to improve career pathways and linkages between K-12 and community college career development programs?*

The Chancellor's Office supports a number of statewide projects specifically designed to improve linkages with K-12 and provide greater coursework relevance as a strategy for increasing student completion and success. These programs include the Academic Senate's Career Pathways program, the Tech Prep program, Perkins Leadership grants for program quality improvement and Perkins funding to keep CTE programs up-to-date and reflective of industry needs. SB70 programs specifically require colleges to partner with their local K-12 districts in the development of CTE coursework as well as pathway design. However, I do believe the BOG and Chancellor's Office should take more of a

leadership role in providing support for and encouraging community colleges to work with their K-12 partners in the area of course articulation. We should also demand to the extent we can that the articulation be done in large regional areas encompassing numerous colleges and high schools thereby giving more choices and opportunities for students. This would also encourage economies of scale for businesses partnering with our system.

9. *Please provide a status update regarding the CTE Pathways Initiative. How does the board monitor progress?*

Since inception of the SB70 program over 400 grants have been awarded with every region of the state receiving at least one grant. Grants are awarded within five broad categories including Career Planning and Development and Career Pathways and Articulation, New Program Development, Expanding Business and Industry Engagement in CTE, CTE Teacher Recruitment and Professional Development and Capacity Building and Research Evaluation. The BOG receives regular reports from staff on the progress of these programs. I also keep myself informed by attending my local San Diego planning meetings of K-12 and community colleges partners to obtain, implement and evaluate SB70 programs in our area. Outcomes to date include hundreds of new courses and enrollment opportunities for K-12 and CCC students, professional development for faculty and new industry partnerships.

10. *There have been reports that the implementations of the SB 70 CTE funds have been inconsistent across school districts and local community colleges. Have you found this to be the case and, if so, what can be done to improve collaborations to expand CTE programs in California?*

As with many statewide grant programs SB70 implementation will vary. In my short time on the BOG I do think the Chancellor's Office does a good job of monitoring implementation and assisting local colleges as problems arise. However, I have publicly expressed concern that sometimes it appears that too few colleges are actually competing for SB70 as well as other grants. I have encouraged the Chancellor's Office to re-double their efforts to communicate the availability of these opportunities and to provide technical assistance to colleges that might lack grant development infrastructure. I have also suggested that our system analyze what may prevent or deter colleges from applying for SB70 or other grants.

11. *Recently, the state has provided supplemental funding for nursing programs. How is the board kept informed of the effect of supplemental funding on the enrollment and retention of students in community college nursing programs? What direction is being provided to local community college districts regarding the sustainability of these programs when supplemental funding decreases or is eliminated?*



The Chancellor's Office keeps the BOG informed of the effect of supplemental funding on the enrollment and retention of students in community college nursing programs. This is done through reports to the BOG and an annual report to the Governor and Legislature. There are 13,047 students enrolled in 74 colleges that operate registered nursing programs. Enrollments have increased by about 48% over the past 3 to 4 years due to the addition of new programs, and expansion of enrollment capacity through partnerships with health care industry and federal and state funded programs and grants. The BOG strongly encourages community colleges to pursue additional funding opportunities to sustain programs. Colleges are also encouraged to establish public/private partnerships to increase enrollment capacity and continue state of the art instruction.

12. *How should the community college system propose to align its educational career development programs with the needs of the green collar workforce? Is this an issue area on which your board provides guidance? If not, do you believe it should, and how?*

Although I believe the job skills and educational needs of the green collar workforce are still being defined I do believe this is an area in which the community colleges have begun to take a leadership role. An example being the alternative energy curriculum being developed by the Chancellor's Office in partnership with PG&E and SDG&E for students interested in the power and utilities industry. I believe local college faculty have been very aggressive in their efforts to align educational and career development programs with the needs of the green workforce in the areas of transportation, alternative fuels and construction technology. I have seen terrific examples in my own area of San Diego where our colleges work with the biotech industry on a number of green technology programs. The BOG has a great opportunity to encourage this alignment through its oversight of SB70 and other CTE/ workforce development grant funding. In consultation with faculty and others the BOG should look to make this a priority where appropriate.

13. *Is the board kept informed of districts' efforts to obtain workforce development funds? If so, how? Is the Chancellor's Office providing direction to districts in their efforts to compete for funds?*

The Chancellor has issued three recent statewide information memoranda to all the colleges and districts outlining the funding opportunities and guidance regarding how to pursue the new funds. These communications also cited specific best practice examples of effective collaborations and partnerships with the local workforce investment boards. Although there may have been briefings regarding district efforts to obtain workforce development funds prior to my appointment I am not as knowledgeable about the status as I should be and will seek current information from staff.



14. *What steps is the board taking to ensure that more community college students are completing basic skills classes? How does the board determine that colleges are taking sufficient steps to track students' progress? Please provide us with any data the board has on completion of basic skills classes.*

The BOG has established as one its highest priorities in the System's Strategic Plan making improvements in ESL and basic skills. The BOG supports the redirection of \$33.1 million toward efforts made by the colleges to achieve increased success of students who need to improve performance in ESL and/or basic skills. The BOG also approves an annual professional development grant of \$1.6 million. In order to receive the funds, each college must submit to the Academic Affairs unit and Action and Expenditure Plan as well as Expenditure Reports throughout the year. Academic Affairs tracks expenditure of funds allocated.

Tracking student progress on a system-wide basis will be conducted through the required Framework for ESL and Basic Skill Accountability which will be submitted annually starting next year. Current data regarding completion and improvement rates of basic skills students are provided in the annual ARCC report. The numbers of students moving to higher levels from 05/06 to 07/08 increased to 89,696. Reported on page 28 of the 2009 ARCC report are system rates for college level performance indicators which include those for ESL and basic skills. Basic Skills Course Completion 07/08 is 60.5%--Basic Skills Course Improvement 05/06-07/08 is 51.2%.

15. *What strategic direction is the board providing the Chancellor's Office in dispersing funds specifically set aside for basic skills education? How does the board ensure that districts are using these funds to target the least-prepared students?*

The Budget Act language specifies detail regarding allocation of funds and the categories of expenditure that are permitted, all of which are focused on making improvements in ESL and basic skills. As stated previously, colleges must submit an Action and Expenditure Plan. This helps ensure that districts are using these funds to target the least prepared students. The BOG and Chancellor's Office have a stated goal of targeting all under prepared students. In addition, the BOG and Chancellor's Office have worked closely with the Academic Senate in the planning and implementation of the Basic Skills Initiative. The President of the Academic Senate also provides the BOG with periodic updates regarding the initiative.

16. *What is the board doing to encourage colleges to work with K-12 schools to align education standards, assessment, and course work that will better prepare students for successfully completing a community college education?*

The BOG supports the community colleges participation in the American Diploma Project (ADP) which focuses on alignment of California high school standards, establishing benchmarks, and implementation of the Early Assessment Program (EAP) as a first step in addressing college readiness. Given that the CSU has used the EAP as an innovative and effective tool, the California Community College System has plans to implement the assessment in a similar capacity. As I stated in a previous question I also think the BOG should further encourage colleges to better articulate courses with their K-12 partners, particularly in the area of career and technical education courses. This will better prepare students for a successful community college experience.

17. *Is the board encouraging colleges to use the existing EAP tests to assess college readiness? Do you believe there is a role for the board in addressing assessment and placement policies? If so, what should it be?*

The BOG supports SB946 and community college participation in the Early Assessment Project initiated by CSU and California high schools. Much work is underway and colleges will be applying to participate this spring. I believe the BOG should have a role in addressing assessment and placement policies. The BOG can prioritize funding in its annual budget request, consult and build consensus with stakeholders around this issue and provide leadership in encouraging colleges to participate in the Early Assessment Program.

18. *How does the board evaluate the quality of student services in its colleges that would boost transfer rates? How can matriculation programs and counseling service better target student populations with the poorest outcomes? What can be done at the board level to improve colleges' efforts if the board determines it is needed?*

The BOG through the Chancellor's Office has implemented comprehensive Student Services site reviews at colleges about to undertake their self study for accreditation which occurs every six year. The reviews focus on the effective deployment of student services on each campus to coordinate with instruction and focus on student success. The second full year of reviews has just been completed and about 40 colleges have now gone through the process. The BOG can and should insist that services be improved if they are deemed inadequate and not as effective in boosting transfer rates. The BOG has prioritized additional funding for counseling in its annual budget request.

19. *How is the Chancellor's Office assisting community colleges in meeting the educational career planning needs of veterans returning to college? In your view, what assistance should the Chancellor's Office provide? Do campuses have sufficient resources to counsel and advise veterans?*

My sense is that the BOG and Chancellor's Office needs to take a more active role in assisting veterans returning to community college. As such, the BOG has

recently established a Veterans subcommittee chaired by a member who is also a veteran. The subcommittee will explore ways the BOG can support individual colleges in successfully assisting veterans in all facets of the college experience. The Chancellor's Office participates in some very worthy efforts including the Troops to College Initiative launched in March 2006. In addition, the Chancellor's Office has worked directly with various stakeholders and campuses to expand outreach programs, academic advising and financial aid advising to veterans and service members on active duty. Staff have identified some particularly strong programs and have spread the word. A communication network for campus veterans program coordinators has been established through an email list-serv. Resources are very limited which is why the Chancellor's Office has written a proposal for dedicated federal funding to support campus efforts and statewide coordination of services for military and veteran students.



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May 5, 2009

Lance Izumi  
Questions & Responses  
cc

Lance T. Izumi

Dear Mr. Izumi:

The Senate Rules Committee will conduct a confirmation hearing on your reappointment as a member of the Board of Governors of the California Community Colleges on Wednesday, June 10, 2009. We request that you appear. The meeting will begin at 1:30 p.m. in Room 113 of the State Capitol.

We have prepared the following questions to which we would appreciate your written responses. Please provide your responses by May 26<sup>th</sup>.

**Goals and Responsibilities**

The California Community Colleges system provides educational, vocational, and transfer programs to more than 2.5 million students. It is the largest system of higher education in the world and is comprised of 72 districts and 109 campuses.

1. *Please provide a brief statement detailing what you hope to accomplish during your second term as a member of the Board of Governors. How will you measure your success?*
2. *As a member of the board for the last four years, what do you consider to be the board's greatest achievements? In your view, what challenges confront the Chancellor's Office, as well as local community college districts?*
3. *California's community colleges serve every region of the state. In a difficult economy and at a time of state budget reductions, how do you, as a member of the Board of Governors, help the community colleges maintain their critical role in California's higher education system?*

**Student Fees and Affordability**

California has no official policy for setting community college fees. Most recently, fees were reduced in January 2007 from \$26 to \$20 per unit. Revenues from student fees are consistently the lowest in the nation. The board administers an enrollment fee waiver program that waives the educational fees for all residents who demonstrate financial need. However, fees represent only about 5 percent of the total cost of attending community college.

Students who do not qualify for the fee waiver program often are eligible for federal financial assistance that covers all or a portion of their fees—these include the federal Hope tax credit and the Lifetime Learning credit. Still, despite this funding, relatively few students take advantage of the federal tax credit/deduction programs.

4. *Should there be a long-term community college student fee policy? If so, what should its key features be?*
5. *What are colleges doing to ensure that students maximize their use of federal aid for which they are already eligible? How is the board kept informed of districts' outreach and technical assistance activities geared toward informing students of their financial aid opportunities? How do you weigh in if you believe more should be done?*
6. *The community college system offers a variety of recreational and personal enrichment credit courses to students, all funded at the same per-student funding rate (about \$4,600 per full-time equivalent student in 2008–09). The Legislative Analyst's Office has recommended reducing the funding for credit-bearing physical education and enrichment classes to the regular noncredit rate. Given the current budget limitations, what are your views regarding this proposal?*

### **Preparing for the Future / Career Technical Education**

California's community colleges are uniquely positioned to help address the state's economic downturn. More than 70 percent of California's higher education students are enrolled in a community college, and almost 60 percent of all graduates of California State University and 30 percent of graduates of the University of California transferred from a community college. Moreover, the community college system's size and geographic distribution make it the only segment of higher education capable of delivering education and workforce training on the large scale necessary to address California's economic challenges.

According to a recent report by the Center for Continuing Study of the California Economy, during the next 10 years, 2.4 million California workers will retire. Communities throughout the state are benefiting from grants awarded to consortia consisting of community colleges and K–12 partners, including high schools, middle schools, and Regional Occupational Centers and programs.

7. *How does the board monitor and determine whether community colleges are responding to local education and workforce training needs? In your view, what policy initiatives or programs are critical to supporting the capacity of community colleges to meet California's workforce needs?*
8. *Enhancing relevance in education and providing students multiple options for success are crucial for curbing dropouts and, at the same time, meeting the needs of our economy. What is the Chancellor's Office doing to encourage community colleges to work with their local high schools to ensure that students have increased access for career development and college preparation courses? What is the Chancellor's Office doing to improve career pathways and linkages between K–12 and community college career development programs?*
9. *Governor Schwarzenegger signed SB 70 (Scott), Chapter 352, Statutes of 2005, to expand career technical education (CTE) instruction and enhance partnerships between secondary and postsecondary CTE programs. Please provide a status update regarding the CTE Pathways Initiative. How does the board monitor progress?*
10. *There have been reports that the implementation of the SB 70 CTE funds have been inconsistent across school districts and local community colleges. Have you found this to be the case and, if so, what can be done to improve collaborations to expand CTE programs in California?*
11. *Recently, the state has provided supplemental funding for nursing programs. How is the board kept informed of the effect of supplemental funding on the enrollment and retention of students in community college nursing programs? What direction is being provided to local community college districts regarding the sustainability of these programs when supplemental funding decreases or is eliminated?*

California is a national and international leader on environmental, natural resources, pollution prevention, and energy issues. As the green technology sector grows, there will be an increase in the demand of highly skilled, well-trained "green collar" workers.

12. *How should the community college system propose to align its educational and career development programs with the needs of the green collar workforce? Is this an issue area on which your board provides guidance? If not, do you believe it should, and how?*



13. *The Legislative Analyst's Office indicates that the American Recovery and Reinvestment Act will provide California with an additional \$494 million in Workforce Investment Act funds for employment and training purposes. Community colleges will be able to compete for contracts to provide job training and other services to job seekers and employers. Is the board kept informed of districts' efforts to obtain workforce development funds? If so, how? Is the Chancellor's Office providing direction to districts in their efforts to compete for funds?*

### **Developing Basic Skills of Community College Students**

The development of strong basic skills is the foundation for student success at a community college. Currently, it is estimated that about 90 percent of incoming community college students are not proficient in transfer-level (university-level) math or English. Of those students who enroll in credit basic skills courses, only about 60 percent successfully complete a basic skills English course, and just 50 percent of students successfully complete a basic skills math course. Since 2006–07 the state has provided additional funding to community college districts as part of the basic skills initiative. Districts can use these funds for services, such as curriculum development, additional counseling and tutoring, and the purchase of instructional materials for basic skills classes.

14. *What steps is the board taking to ensure that more community college students are completing basic skills classes? How does the board determine that colleges are taking sufficient steps to track students' progress? Please provide us with any data the board has on completion of basic skills classes.*
15. *What strategic direction is the board providing the Chancellor's Office in dispersing funds specifically set aside for basic skills education? How does the board ensure that districts are using these funds to target the least-prepared students?*

### **Student Success**

One of the community colleges' strategic goals is to increase completion rates among community college students by promoting college readiness as early as possible. Most studies agree that incoming community college students should be assessed prior to enrolling in classes in order to learn whether they are on track for college-level work. Many studies cite California State University's early assessment program (EAP) as a model for measuring and communicating college readiness to high school students. Currently, there is no statewide EAP for high school students considering a community college. Last year, legislation was signed by the Governor—SB 946 (Scott), Chapter 473, Statutes of 2008—which expands EAP to include participation by prospective community college students, beginning in 2009–10.

16. *What is the board doing to encourage colleges to work with K–12 schools to align educational standards, assessment, and course work that will better prepare students for successfully completing a community college education?*
17. *Currently, all districts determine their own academic standards, which can vary in academic rigor from campus to campus. Assessment and placement are voluntary as well, as practiced at many colleges across the system. Is the board encouraging colleges to use the existing EAP tests to assess college readiness? Do you believe there is a role for the board in addressing assessment and placement policies? If so, what should it be?*
18. *How does the board evaluate the quality of student services in its colleges that would boost transfer rates? How can matriculation programs and counseling services better target student populations with the poorest outcomes? What can be done at the board level to improve colleges' efforts if the board determines it is needed?*

#### **Veterans Services**

Sixteen thousand of the 21,000 veterans and their dependents using GI Bill benefits at California's public colleges and universities are in the California community college system. In 2006 Governor Schwarzenegger announced the Troops to College initiative to provide educational opportunities and assistance to active duty service members and veterans. Last summer, the Post 9/11 GI Bill Reauthorization was signed into law, providing enhanced educational benefits for veterans. The California Postsecondary Education Commission has projected a possible enrollment increase of 34,000 veterans in private and public colleges and universities, with the greatest increase anticipated to be at community colleges.

19. *How is the Chancellor's Office assisting community colleges in meeting the educational and career planning needs of veterans returning to college? In your view, what assistance should the Chancellor's officer provide? Do campuses have sufficient resources to counsel and advise veterans?*

Lance T. Izumi  
May 5, 2009  
Page 6

Please send your written answers to these questions to Nettie Sabelhaus, Senate Rules Committee Appointments Director, Room 420, State Capitol, Sacramento, CA 95814.

Thank you for your help.

Sincerely,

DARRELL STEINBERG  
DS:LG



ANSWERS BY LANCE T. IZUMI, MEMBER OF THE BOARD OF GOVERNORS OF  
THE CALIFORNIA COMMUNITY COLLEGES, TO QUESTIONS BY THE SENATE  
RULES COMMITTEE

1. As the current president of the Board of Governors, I would like to finish my presidential term by continuing to provide stable, thoughtful and inclusive leadership. The new state chancellor, Dr. Jack Scott, will be presenting his goals for his chancellorship in July. I will work with him to implement the goals mutually agreed upon between him and the Board. Also, the Board-adopted system strategic plan gives a wide overview of the challenges that the community colleges face, and the responses of the Board of Governors and the Chancellor's Office. The extent to which the individual components of the plan are implemented will be a significant measure of the success of my continued tenure as a member of the Board of Governors. For example, one of the goals identified by the plan would enhance alignment of expectations between K-12 schools and the colleges regarding what it takes for high school students to succeed in higher education. I have been a strong supporter on the Board of efforts such as the California Partnership for Achieving Student Success (Cal-PASS) program that brings K-12 and community college instructors together to align curricula and instruction so that students have the knowledge and learning necessary to make the transition from K-12 to college.

2. Providing statewide leadership is a key responsibility of the Board of Governors. This responsibility includes choosing the chancellor of the system when required. Within the last four years the Board of Governors was faced with the difficult task of conducting two intensive searches for chancellor of the statewide system. These searches were precipitated by the unexpected resignation of then-chancellor Mark Drummond. The Board decided to fill the position first with an interim chancellor while it conducted a nationwide search for a permanent chancellor. As the then-vice president of the Board, then-president Kay Albani delegated to me the responsibility of overseeing the process of selecting the interim chancellor, which involved working closely with a recruitment consultant to set up the selection process. In order to maximize inclusiveness among all stakeholders within the community college family, stakeholder representatives were included in the process to give their advice and input. Through this consultative process, the Board eventually chose Dr. Diane Woodruff to be the interim chancellor. Dr. Woodruff's tenure as interim chancellor was widely praised by college leaders out in the field. She provided steady thoughtful leadership for more than a year while the Board sought a permanent chancellor. As president of the Board, I was in charge of the selection process of the permanent chancellor. Again, this responsibility involved working closely with our recruitment consultant to coordinate a nationwide search for candidates and set up a selection process. Once again, we involved stakeholders in the selection process to give advice and input. At the end of the process, the result was the choice and appointment of Senator Jack Scott as permanent chancellor. Senator Scott is universally respected inside and outside the system, and his proven leadership is what the colleges will need as they face the wide variety of challenges in the coming years.

Senate Rules Committee

MAY 26 2009

Appointments

The Chancellor's Office and the colleges face a myriad of challenges. With the state's ongoing budget crisis, the Chancellor's Office, which has seen cutbacks in personnel over the years, will have to do more with less, which is an increasingly difficult responsibility. Likewise, the colleges face increased demand for academic, career technical, and other education services at a time when resources are getting tighter. Providing these services and continuing as effective gateway institutions will be challenging in the current fiscal situation. In addition, the colleges must address critical issues such as the large number of students who must receive basic skills instruction in English and/or math. The system office has spearheaded a statewide Basic Skills Initiative designed to disseminate best practices to professionals in the field. This initiative has received accolades from participants. The Board of Governors and the Chancellor's Office are assisted in their efforts to meet the many and diverse challenges facing the system and individual colleges through the system strategic plan that was adopted in 2006. Implementation groups that include a variety of state and local officials plus stakeholder representatives have been busy ensuring that the plan is meeting its goal of addressing in a timely way the many problems and challenges that have been identified.

3. As a member of the Board of Governors, I provide state-level leadership to assist the local colleges. For example, as president of the Board, in February I traveled to Washington, DC with Chancellor Scott and a delegation of California community college leaders to meet with key members of Congress regarding the then-pending federal stimulus package. We urged congressional leaders to allow flexibility to states to maximize the use of stimulus dollars for the benefit of the community colleges. I have also served as a member of the Joint Advisory Committee for Career Technical Education (JACCTE), which includes representatives of the Board of Governors and the state Board of Education. As a member of the JACCTE, I supported a re-examination of the formula by which federal career-technical dollars are divided up between K-12 and the colleges so as to ensure that the colleges receive a fair share of those dollars. Also, Board members, including myself, interface with state legislators to discuss the needs of the colleges and present the case for adequate funding for those needs. The Board also works with the Chancellor's staff to come up with budget proposals that address the needs of the colleges. As president of the Board, I help guide those discussions with staff so that optimal proposals are produced.

4. Having served on the Board when fees increased to \$26 a unit, the consensus among Board members, including myself, was that fees should be low and affordable because the community colleges are intended to be gateway institutions for students, many of whom come from lower-income backgrounds. The discussions at the time centered on the propensity for fee increases to occur unpredictably, such as when the state faced sudden fiscal problems, which created hardships for students in terms of planning their finances for college. The discussions emphasized that the longtime fee policy of the Board was that fee changes should be incremental and predictable so as not to create an undue burden on students. Any change to the current \$20 fee level should, therefore, follow this recommendation. Further, financial aid should continue to be sufficient to cover fees for low-income students and revenues generated by increased fees should not supplant general fund support for the colleges.



5. During my tenure on the Board of Governors, the Board and the Chancellor's Office have supported the "I Can Afford College" media campaign designed to inform students and potential students of the financial aid that is available to them for community college. Television and radio commercials have been presented to the Board for its critique and input. The importance placed upon this outreach to students is underscored by the hiring of one of the individuals responsible for the "I Can Afford College" campaign as the communications head in the Chancellor's Office. The "I Can Afford College" campaign not only informs students of the BOG fee waiver, but is creating new materials to explain the new federal higher education tax credit. Unlike the Hope tax credit and the Lifetime Learning credit, which can be used only to offset fees and tuition, the new federal tax credit can offset the cost of books and supplies, which often are more costly for students than fees. The system has been grateful that the state has provided funding since 2003-04 for financial-aid outreach efforts. The Board is pleased that nearly 80 percent of students receiving a BOG waiver also file a Federal Financial Aid form. The Board is kept informed of developments involving state and federal financial aid through regular reports made to the Board by Chancellor's Office staff at regular Board meetings. These reports allow discussion by Board members as to their ideas for improving financial aid outreach.

6. I agree that it is important to keep evaluating how limited tax dollars are used, especially during times of fiscal crisis. In order to make informed decisions it is also important to understand exactly how dollars are being used. Not all physical education courses are recreational. Some of these courses are included in particular certificate and degree programs. Any funding changes regarding physical education should recognize these differences in physical education courses.

7. During my tenure on the Board, we receive regular reports on workforce development issues from Vice Chancellor Jose Millan, who is the person responsible for overseeing that subject area. Through his reports we are informed about workforce training needs and how the Chancellor's Office and the local colleges are addressing those needs. Addressing those needs often take place within the framework of the system's strategic plan. At the Board's most recent meeting, we received a report on the implementation of six workforce-development goals contained in the system strategic plan: innovative practices in workforce education, coordination of statewide workforce programs and policies, career pathways between academic and career fields, regional collaboration through multi-agency networks, and defining and addressing long-range economic and workforce trends. These goals are key in supporting the capacity of community colleges to meet California's workforce needs. In terms of, for example, coordination of statewide workforce programs and policies, the Chancellor's Office is partnering with state agencies, using local community colleges as service providers, to increase and retool career technical education programs. These partnerships will support community colleges in their delivery of education and training services. For instance, a collaboration is being developed with the Energy Commission to develop curriculum and train workers for employment in energy-efficiency-related areas.



8. The Cal-PASS program, which has been supported by the Chancellor's Office, and which I mentioned in my answer to Question #1, seeks to put K-12 and community college instructors together to ensure that students are more successful in their access to and readiness for the variety of programs in higher education. Cal-PASS tracks the performance of career-technical-education students and their outcomes to help inform the linkages between K-12 and community college career development programs. Cal-PASS has also been named the statewide career-technical-education data provider under the federal Perkins law. Cal-PASS is also currently working to embed contextualized assignments from career technical education courses into English and math courses, and to embed in career technical education courses the English and math elements that are basic to all curricula. The process will create aligned curricula outcomes so that students will be prepared for the next level course and postsecondary work once they leave high school. Recently, Cal-PASS contracted with the Employment Development Department to track students to the work world. This data will be used to improve career technical education practices among high schools and colleges. Also, the Chancellor's Office supports a variety of programs, such as the Career Pathways program and various federal Perkins programs that are designed to improve the linkages between community colleges and K-12 schools.

9. The Legislature has generously increased funding for CTE Pathways Initiative from \$20 million in 2005-06 to \$58 million in 2008-09. During that time more than 400 grants have been awarded. In the 2008-09 fiscal year, approximately 100 grants were awarded for career planning and development and career pathways and articulation, approximately 55 grants were awarded for new program development, approximately 20 grants were awarded for career-technical-education teacher recruitment and professional development, approximately 10 grants were awarded for expanding business and industry engagement in career technical education, and one grant went to capacity building, research and evaluation. As a result of the grants, hundreds of new courses and enrollment opportunities have been created for K-12 and community college students. Also, faculty professional development and industry connections to occupational preparation programs have increased. The Board monitors SB 70 through the approval of grants and through a contracted for a study by WestEd on the effectiveness of the grants.

10. There has been a transition in the way SB 70 funds have been used since the law was enacted. In order to have a greater initial impact, funding in the first years of the program was targeted at particular programs that could be used as models for emulation. These programs, which were selected through a competitive process at the Chancellor's Office, already had much of the infrastructure and partnerships in place in order to make a quick impact. Because of this focus, there may have been the appearance of inconsistent use of funding across districts and colleges. Currently, the competitive grant process serves programs in a larger cross-section of the state. These programs are organized into sub-regions that bring together community colleges, the business community and K-12 schools.

11. The Board is updated at its regular bimonthly meetings by Chancellor's Office staff on CTE issues, including issues involving nursing programs. The Board is also

responsible for the distribution of supplemental funds for nursing projects. The Chancellor's Office issues a yearly report to the Governor and the Legislature on the results and funding of the nursing initiative. With the prospect of supplemental funding being curtailed or ended, the Board has urged colleges to establish private-public partnerships and other funding options in order to ensure the continuance of programs.

12. Defining and addressing long-range economic and workforce trends is one of the key goals in the system's strategic plan. Certainly, the advent of green-collar industries and jobs must be addressed in meeting this goal. An action plan group for this particular goal in the strategic plan has been established. Sixty regional, multi-regional or statewide industry reports on high growth, economically critical industries or occupations have been collected. Partnership events have been held to bring faculty and workforce professionals together with industry to discuss solutions to workforce issues. One partnership event was held for faculty, staff, and industry partners to present an overview of the green economy. The newly formed State Green Jobs Council subsequently used information resulting from this partnership event. A study by the Lawrence Berkeley Labs and PG&E found eight occupations in energy efficiency that require community college training. These study results are being used to begin and expand community college programs.

13. As the disbursement and use of ARRA funds take place, the Board will be informed by regular staff reports at its bimonthly meetings about the efforts of districts to obtain these funds. The Chancellor has issued three statewide memoranda to colleges and districts informing them of the funding possibilities arising from ARRA and direction on how to obtain these new funds. These memoranda also cite best practice examples of effective partnerships with local workforce investment boards (WIB). Where there has been little or no collaboration between WIBs and colleges, the Chancellor's Office is providing technical assistance to foster partnerships. Also, the Chancellor's office is working with the Administration to monitor Workforce Investment Act funds contained in special initiatives such as Allied Health Care programs and the Green Clean Initiative.

14. The system's strategic plan acknowledges that a majority of entering community college students requires basic skill instruction. The plan also says that basic skills is the foundation for student success. The Board supports the Basic Skills Initiative (BSI), which is designed to improve the success of students in basic skills classes. BSI works by disseminating information on effective basic skills practices and improving professional development for teaching of basic skills. BSI holds numerous workshops for instructors, staff and administrators in all parts of the state to accomplish its objectives. At these workshops, faculty are instructed on how to use assessment tools, data collection, interpretation, and reporting to enhance student outcomes. Tracking student outcomes on a system-wide basis will be included in a supplemental ARCC report next year. The report will include student headcount broken down by subgroups, number of sections of basic skills and ESL offered, number of non-exempt students who are assessed, persistence of basic skills students from fall to spring and fall to fall, and student progress based on the tracking of a cohort of students over eight years through basic skills and ESL sequences to degree applicable courses. The ARCC report also



includes data for each college that shows basic skills course completion rates and ESL and basic skills improvement rates (improvement is defined as moving from one level of basic skills to higher level within three years). System-wide, the basic skills completion rate in 2007-08 was 60.5 percent, while the basic skills improvement rate from 2005-06 to 2007-08 was 51.2 percent.

15. For colleges to receive funds targeted for basic skills education they must submit an action and expenditure plan and reports that show where the expenditures have been made. Allowable expenditures include program and curriculum development, student assessment, advisement and counseling services, supplemental instruction and tutoring, articulation, instructional materials and equipment, and related programs. Each college should be targeting each and every basic skills student. In terms of the Board advising the Chancellor on the disbursement of basic skills dollars, there is a steering committee on the system's Basic Skills Initiative, and two members of the Board of Governors sit on that steering committee

16. As mentioned earlier, one of the most promising projects for aligning standards, assessment and coursework is the Cal-PASS system devised by experts in the Grossmont-Cuyamaca Community College District, and which has been supported by the Chancellor's Office. Cal-PASS tracks student progress from kindergarten to attainment of a bachelor's degree. Since, during their educational careers, students transition from one system to another, expectations of adequate performance changes from system to system. Cal-PASS has created 66 regional professional learning councils with 1,200 K-12 and higher education faculty to align expectations between systems in order to facilitate greater student success. These professional learning councils are now working on aligning curricula outcomes in English and math from the 11<sup>th</sup> grade through transfer level at the community colleges. The curricula alignment process involves discussing outcomes and entrance competencies, and the creation of materials needed to get high school students college ready. Aligned curricula should lead to increased student transition and reduced remediation as they move from one grade level to the next and when they move from secondary to postsecondary institutions. For example, at one Bay Area school district, Cal-PASS-supplied data allowed the local professional learning council to recommend a summer bridge program in math and chemistry that ended up increasing the preparation level of student participants, with participants earning higher chemistry grades than comparison groups of non-participating students.

In addition, the Board supports the participation of colleges in the American Diploma Project, which is designed to assist California policymakers reach agreement on a common standard of college readiness. One of the key tools in this effort is the Early Assessment Program (EAP), a set of questions added onto the 11<sup>th</sup>-grade California Standards Test that measure college readiness in English and math. The CSU uses the EAP in its placement process, and there are plans for the community college system to use the EAP in a similar fashion.

17. As mentioned in the previous answer, the Board and the system supports the EAP, and community college participation in the EAP is being worked out. The Board has



recognized the deficiencies of the varying standards, assessment tools, and placement policies used by colleges. In response to the deficiencies resulting from this hodge-podge, the Board passed a resolution a couple years ago that pushed for a uniform common assessment to be used for placement purposes. Then-interim chancellor Diane Woodruff put together an action-planning group, which included representatives of the Legislative Analyst's Office, to address assessment and placement issues. One of the key problems resulting from the varying assessment and placement policies is that students, even if they test at a level showing that they need basic-skills instruction, are not required to take basic-skills courses before they take subject-area courses. The action-planning group is examining regulatory change proposals that would direct students to basic-skills courses before they take subject-area courses.

18. In order to evaluate the quality of student services, the Chancellor's Office conducts student-services site reviews that are scheduled to undergo their self-study in preparation for accreditation. Around 40 colleges have gone through the review process, which focuses on issues such as the effective use of student services at each campus to improve student success. Counseling services are stretched thin throughout the system. Currently, the student to counselor ratio is around 1900 to 1. The Board has been concerned that the relative lack of counselors creates a barrier to success for many students. In response, the Board has endorsed additional funding for counseling in its budget requests in the last several years. The action-planning group mentioned in Question #17 is also reviewing options for increasing the number of counselors. Increasing the number of counselors will allow greater flexibility for deploying those counselors in a way that can address the needs of students who are experiencing difficulty in their schoolwork.

19. The Board is very concerned that the needs of returning veterans be addressed. At a recent regular Board meeting, student services vice chancellor Linda Michaelowski put together an information panel on veterans issues that presented an array of information to the Board on the needs and challenges facing veterans re-entering the classroom. In response, as president of the Board, I just appointed member Bobby McDonald, a longtime champion of veterans issues, as the chair of the Board's veterans committee. Mr. McDonald will take the lead on interfacing with policymakers and veterans in order to assist the Board make its decisions as they relate to veterans. In addition, the Chancellor's Office had participated in Governor Schwarzenegger's Troops to College initiative, which promotes opportunities and assistance to active-duty members of the armed services, veterans, and their dependents, and which addresses issues such as outreach to veterans, admissions and financial aid, best practices, partnerships, and marketing and communications. Also, the Chancellor's Office has worked with colleges and stakeholder groups to expand outreach efforts, counseling, and financial-aid advising to members of the armed services and veterans. The Office has also informed colleges of identified model programs such as support teams of veterans that assist returning veterans transitioning back to college and education fairs at military installations. In addition, the Office has established a communications network for veterans program coordinators and has facilitated the sharing of effective practices. Finally, the Chancellor's Office is working with the California Association for Postsecondary Education and Disability to address the needs of disabled veterans. Because resources in the Chancellor's Office and

at the colleges are very limited with regard to assisting veterans, the Chancellor's Office has put together a proposal for dedicated federal funding to support campus efforts aimed at veterans and statewide coordination of services for veterans and armed-services members attending community colleges. The Chancellor's Office can assist colleges by serving as a clearinghouse for effective practices and programs and coordinating outreach materials.

Lance J. Zymer

## SENATE RULES COMMITTEE

### STATEMENT OF GOALS

**1. Please provide a brief statement of goals that you hope to accomplish while serving as a member of the California Community Colleges Board of Governors?**

I established four basic goals in my first term and I would like to continue and expand on those listed below. I would also like to add two more goals.

- A) I would like to work with the community colleges to improve the basic skill levels of our students. Re-establishing the value of an Associated of Arts Degree and what it would mean in the real world.
- B) I think we need to expand our course offerings in the area of vocational education. These courses need to meet the needs of business in California.
- C) Distance education has a great value to students, especially those who reside in rural locations. I believe we need to expand our resources for this section of our curriculum.
- D) The availability and cost of textbooks have an impact on student achievement and their ability to attend community college. Costs are spiraling upward and creating a hardship on our students. I would like to work towards a legislative solution to this problem.
- E) I was appointed to the Foundation of California Community Colleges and I want to continue to work towards the successful placement of hundreds of scholarships for students throughout this system through the Osher Foundation Grant.
- F) I would like to work with the legislature to establish a stable year to year funding source for community colleges.

- A portion of some of these goals have been accomplished, but the true measure will be the ongoing work I can do to bring consensus among my fellow board members as well as the systems office to prioritize and form action plans to accomplish these goals.

Senate Rules Committee

MAY 12 2009

Appointments



**2. As a member of the board for the past three years, what do you consider to be the board's greatest achievements? In your view, what challenges confront the Chancellor's Office, as well as local community college districts?**

The greatest achievements are:

- The hiring of Jack Scott as our new Chancellor brings stability to our board and he will provide goal oriented leadership that will allow us to move forward with greater continuity.

The challenges are:

- The challenges for this office will be their ability to attract qualified personnel to work in the systems office.
- The ability to align appropriate course work and technology to meet the future needs of California's labor force. Therefore, appropriate workforce development strategies for future programs along with basic skills learning will be a critical goal for this office.

**3. California's community colleges serve every region of the state. In a difficult economy and at a time of state budget reductions, how do you, as a member of the Board of Governors, help community colleges maintain their critical role in California's higher education system?**

- It appears to me that we need to work with all stakeholders and continually prioritize what the needs of our students are and how we can manipulate existing resources to meet those needs.

### **Student Fees and Affordability**

**4. Should there be a long-term community college student fee policy? If so, what should its key features be?**

- I believe there needs to be a long-term policy reflecting community college fees. This could be established by simply reflecting the true cost of education and monitoring a standard such as the consumer price index. This would allow for an automatic increase in assessment of fees tied to factors outside of the political arena and more closing aligned with practical business economics.

**5. What are colleges doing to ensure that students maximize their use of federal aid for which they are already eligible? How is the board kept informed of districts' outreach and technical assistance activities geared toward informing students of their financial aid opportunities? How do you weigh in if you believe more should be done?**

- The board is involved in a reach out campaign for students called "I Can Afford College". We continue to push toward the districts the need for education of potential incoming students to investigate the opportunities of federal Financial Aid such as BOG.
- The board is kept apprised of these activities through the Systems Outreach Department of the Chancellors Office. Any ongoing problems or needs for support to specific districts or community colleges are brought to the board's attention.
- This issue is part of the established strategic plan of the board. We review this plan on a regular basis and maintain a high level of vigilance towards its success. This is also part of the mission of the Foundation for Community Colleges of California, in cooperation with the Osher Grant money.

**6. The LAO has recommended reducing the funding for credit-bearing physical education and enrichment classes to regular noncredit rate. Given the current budget limitations, what are your views regarding this proposal?**

- I believe that we should not rush to cut these programs. Having said this, I also believe that many classes for personnel enrichment could be removed from the credit-based FTES format and provide a community service fee based enrichment courses. This would allow a college to provide needed courses as a fee based noncredit course and thus we continue to serve the community
- Additionally, we need to continue to offer credit-based physical education coursework to support students that moving towards a degree program or course work that may support specific certificates.

## **Preparing for the Future / Career Technical Education**

**7. How does the board monitor and determine whether community colleges are responding to local education and workforce training needs? In your view, what policy initiatives or programs are critical to supporting the capacity of community colleges to meet California's workforce needs?**

- The board is continually briefed about the Economic Workforce Development (EWD) programs. The Systems Office requires a five year strategic review to assess the economic impacts and return on investments to assist in whether ongoing funding should be provided.
- Our policy should be to continually invest in areas that support local employer needs for a changing workforce. In part we can access data to provide this information through the Accountability Reporting for Community Colleges (ARCC) along with systems data provided for specific colleges by EWD.

**8. What is the Chancellor's Office doing to encourage community colleges to work with local high schools to ensure that students have increased access for career development and college preparation courses? What is the Chancellor's Office doing to improve career pathways and linkages between K-12 and the community college career development programs?**

- The Board of Governors has established increase access as part of their strategic plan. Within this plan we have identified Partnerships for Economic and Workforce Development as a measurable goal.
- To improve career pathways and linkages between K-12 and community colleges we have established the Academic Senate Career Pathway program and the Perkins Leadership Grant program for quality and improvement.

**9. Governor Schwarzenegger signed SB 70 to expand career technical education instruction and enhanced partnerships between secondary and postsecondary CTE programs. Please provide a status of the update regarding the CTE Pathways Initiative. How does the board monitor progress?**



- The program began in 2005 and through present day the funding has been increased to \$58 million dollars with over 400 grants awarded. Approximately half of these grant monies go toward local communities to strengthen programs and the remaining 50% to capacity building activities. This includes professional development.
- Monitoring of these monies and programs occurs through the Systems Office. The Boards of Governors are provided continual updates as to the progress and performance of these programs.

**10. There have been reports that the implementation of the SB 70 CTE funds have been inconsistent across school districts and local community colleges. Have you found this to be the case and, if so, what can be done to improve collaborations to expand CTE programs in California?**

- Initially there were some inconsistencies in how the CTE funds were implemented. However, recently the focus of the competitive grant program has been modified to support a greater cross section of the state. These projects are called CTE-Community Collaboratives.

**11. Recently the state provided supplemental funding for nursing programs. How is the board kept informed of the effect of supplemental funding on enrollment and retention of students in community college nursing programs? What direction is being provided to local community college districts regarding sustainability of these programs when supplemental funding decreases or is eliminated?**

- The Board of Governors is kept informed through the Systems Office and their reporting by the colleges that institute these programs. The board provides an annual report to the Governor and Legislature as to compliance with the State Budget Act.
- Colleges are aware that this funding is not permanent. The board supports the start up capital required to establish these programs and provides guidance to the community colleges to create public-private partnerships to increase nursing enrollment and support for these programs.
- With over \$ 50 million dollars having been spent on these nursing programs, the benefits include that over 74 community colleges are participating with more than 13,000 full-time equivalent students are enrolled.

**12. How should the community college system propose to align its educational and career development programs with the needs of the green collar workforce? Is this an issue area on which your board provides guidance? If not, do you believe it should, and how?**

- For California to remain competitive in the global workplace they will require training in technical education as it addresses the green sector.
- The Board of Governors encourages the community colleges to format course work with our EWD and Workforce Development initiatives.

**13. The LAO indicates that the American Recovery and Investment Act will provide California with an additional 494 million in Workforce Investment Act funds for employment and training purposes. Is the board kept informed of districts' efforts to obtain workforce development funds? If so how? Is the Chancellor's Office providing direction to districts in their efforts to compete for funds?**

- The Chancellor's Office has been very proactive in keeping the board and the community colleges apprised of the availability of these funds. The Chancellor has issued three statewide information memorandas outlining funding opportunities.
- The Chancellor's Office continues to encourage colleges to work closely with local government agencies and form workforce partnerships to assist in collaborative efforts to secure these funds.

## **Developing Basic Skills of Community College Students**

**14. What steps is the board taking to ensure that more community college students are completing basic skills classes? How does the board determine that colleges are taking sufficient steps to track students' progress? Please provide us with any data the board has on completion of the basic skills classes.**

- The Board of Governors has established as one of its highest priorities within the strategic plan to make ongoing improvements in ESL and basic skills.
- The board has redirected up to \$33.1 million towards efforts to increase the success of these programs.
- Tracking of the students progress on a system wide basis will be monitored through the ESL and basic skills framework and reported annually in the ARCC report.
- Any data to support these results will also be reported in the annual ARCC report.

**15. What strategic direction is the board providing the Chancellor's Office in dispersing funds specifically set aside for basic skills education? How does the board ensure that districts are using these funds to target the least-prepared students?**

- The colleges must submit an action and expenditure plan within the appropriate categories that are outlined for the expenditures. Some of these are program and curriculum planning and development, student assessment, advisement and counseling services, supplemental instruction and tutoring, articulation, and instructional materials and equipment.
- Additionally, the board has directed the Chancellor's Office to target underprepared students.

**16. What is the board doing to encourage colleges to work with K-12 schools to align educational standards, assessment, and course work that will better prepare students for successfully completing a community college education?**

- Early student assessment at the K-12 level is critical in evaluating and establishing college and career readiness.
- The board has focused on the ADP Program to help establish standards among all of California's education institutions.
- This form of assessment has proven to be an effective tool for transitioning students to community college readiness and assisting in preparing them for higher educational opportunities.

**17. Currently, all districts determine their own academic standards, which can vary in academic rigor from campus to campus. Assessment and placement are voluntary as well, as practiced at many colleges across the system. Is the board encouraging colleges to use the existing EAP test to assess college readiness? Do you believe there is a role for the board in addressing assessment and placement policies? If so, what should it be?**

- Since being appointed to the board we have been focused on student assessment and course placement as a critical component in promoting student success.
- Yes, for this reason the Board of Governors is in support of SB 946 which will continue to assist us in early assessment of basic skills for students. As much as 70% of the students entering into community college lack some basic skills.



**18. How does the board evaluate the quality of student services in its colleges that would boost transfer rates? How can matriculation programs and counseling services better target student populations with the poorest outcomes? What can be done at the board level to improve colleges' efforts if the board determines it is needed?**

- We are in the second full year of review as a result of the board's strategic plan. The Systems Office has implemented comprehensive student site reviews. These reviews are conducted by peer teams that include a staff member of the Chancellor's Office.
- The reviews focus on effective deployment of student services on each campus and to coordinate with instruction and student success.

### **Veterans Services**

**19. How is the Chancellor's Office assisting community colleges in the meeting the educational and career planning needs of veterans returning to college? In your view, what assistance should the Chancellor's Office provide? Do campuses have sufficient resources to counsel and advise veterans?**

- At our May meeting the Board of Governors established a standing committee to specifically address the needs of our veteran's.
- The Chancellor's Office has been directed to continue working with the "California Troops to College Initiative".
- The Chancellor's Office continues to work with various stakeholders and campuses throughout the state to improve awareness and availability of services. Additionally, the Chancellor's Office has written a proposal for dedicated federal funding to support campus efforts with statewide coordination of services for military and veteran students.

## Goals

1. *Please provide a brief statement of goals you hope to accomplish while serving on the board. How will you measure your success?*

I am very honored to have been asked to serve on the Board of Regents. My son graduated from UC Santa Barbara and I am honored to be able to give back to the institution.

I am joining the Board at a very difficult moment. The current economic crisis is straining the very fabric of the institution and threatens to tear apart some of the State of California's promises to its young people under the Master Plan. I would like to promise to you that my fellow Board members and I will be able to continue to deliver UC students the best education possible, that UC will continue to be the best public research institution in the world. I would like to promise to you that my fellow Board members and I can ensure that UC remains accessible and affordable to all qualified students. And I would like to promise that UC will remain an economic engine for the development and growth of the State. Instead, I can only offer my assurance to you that we will do all in our power to deliver on these goals. The Board of Regents will need your help to accomplish these goals.

2. *You have been assigned to serve on the Committee on Investments. What specifically would you like to accomplish while serving on this committee?*

*[Note: Need further conversation or notes to personalize this answer]*

As you know, the Committee on Investments is responsible for protecting the assets of the University through proper allocation and providing an investment return in excess of the rate of inflation. Both will be a challenge in the current economic environment.

Simply put, I want to protect the future of the University. I will work to ensure that every UC employee is able to retire with the benefits promised. Due to the global financial crisis, the University's investments have suffered huge losses that are in line with those experienced by comparable institutions, organizations, and the market in general. However, my understanding is that, even though UC has not had employee or employer contributions into the retirement system for 19 years—something that distinguishes it from comparable pension systems—it is remarkable that the University has been able to sustain paying out about \$140 million per month, on an ongoing basis, in pension benefits to its retirees. On this score, we will need the State's help because now, for the first time in 19 years, we are asking UC employees and the State of California to begin making contributions to the University's retirement plan in order to ensure its solvency.

Senate Rules Committee

MAY 26 2009

1

Appointments

I also want to ensure that the University remains able to attract the staff and the faculty necessary to continue the tradition of excellence, and a healthy retirement and healthcare program are essential to this. To accomplish these goals, the Investments Committee will need to maximize the returns with a strategy that emphasizes stability, safety and liquidity. I trust my experience in business will be an asset to the Committee in this regard.

3. *The university plays a critical role in every part of California's cultural and economic life. In a difficult economy and with significant state budget reductions, as a regent, how do you help UC sustain its critical role? How are you able to focus on this important "big picture" issue as a UC regent?*

To characterize this moment in California's as well as our nation's history as "a difficult economy" is an understatement. Federal Reserve Chairman Ben Bernanke has said that this is the worst financial crisis in the world since the 1930s. The impact of the world's, nation's, and state's current economic crisis will be a tremendous challenge for the University—this year, next year, and into the foreseeable future.

As you well know, the Governor has proposed a net budget reduction to UC of \$322 million, or 10%, in 2009-2010. Together with the state's underfunding of our student enrollment growth and inflationary cost increases, this means UC's total budget gap is \$531 million in 2009-10. The crisis will produce cuts in service of unprecedented levels.

As a Board, we are likely to be forced to consider further enrollment reductions that would make it harder for students to be admitted; cuts in academic programs, reductions in course offerings and increases in class size; cuts in student services ranging from academic and career counseling to student mental health services; possible pay reductions or furloughs for staff; and possibly even higher student fees in future years. There are only hard choices ahead.

However, I appreciate that the question recognizes that the University has a critical role to play. I agree. The University is a key ingredient in our budget solution and should be viewed as such. UC represents an investment in California's future. The human infrastructure of this State is the future driver of economic growth in California and we, as a State, have underinvested in human capital.

As a Regent, I must keep the larger objective before me: to preserve and sustain the University as a means of preserving and sustaining the future promise of California.



The University's role in helping to develop a pool of workers who can meet the state's, as well as the nation's, needs is critical. When faced with these difficult questions and decisions as a Regent, I strive to ask the right questions, absorb and balance all the relevant information, then evaluate, to the best of my ability based on the best available information, how to do what is in the best interest of the University given its mission and priorities in meeting the state's research, teaching, and public service needs. Among the 220,000 students currently studying on one of the ten UC campuses, about 13,000 of them will be the next generation of doctors, nurses, and health practitioners. UC produces entrepreneurs, engineers, scientists, writers and artists. For 14 years running, the University of California has been the nation's leading university in the number of patents issued by the U. S. Patent Office. UC is creating new technologies, new products, new companies, and new jobs for California.

4. *Some 120,000 young people drop out of high school and middle school annually in California. What role, if any, should UC play in turning the dropout crisis around? How does the board weigh in on what should be done?*

While the primary role of the University is to educate and train undergraduate, graduate, doctoral and post-doctoral students, the Regents also recognize our responsibility to ensure that the entire public education system in California is meeting its responsibility to produce young people who are either ready to proceed to college work or prepared for a job once they graduate. The high dropout rate in our secondary schools threatens not only the pipeline for successful college completion, but also the future economic vitality of the State. Thus, it is no secret that California's middle and high school dropout rate is a problem that warrants the engagement and attention of all educators, policy makers and parents.

I asked the Office of the President to provide me with some information on this topic. I understand that University of California researchers are thoroughly engaged in not only solving this problem, but understanding the key influential factors in dropout rates. According to University staff, at UC Santa Barbara, the California Dropout Research Project recently performed a review of past research to identify significant individual and institutional predictors of high school dropout or graduation. Four key factors predicted whether students would drop out or graduate: 1) educational performance, especially grades; 2) behaviors, such as student engagement; 3) attitudes, specifically how far a student expected to go in school; and 4) background, most significantly participation in preschool. According to the study, several other factors, such as families and schools, were predictors of both dropout and graduation rates.

I am pleased that, under President Yudof's leadership, UC is engaging in collaborative efforts with CSU and the California Community Colleges to make certain all of the segments are working together on this issue.

The role of the Board is to set policy and oversee the administration's implementation of that policy. The Board has affirmed the University's role in K-12 education as an important piece of our public service mission, and addressing the dropout crisis in California is a critical component of that effort. As a Board member, I look forward to future updates on this subject from President Yudof.

5. *Enhancing relevance in education and providing students multiple options for success are crucial for curbing dropouts, as well as meeting the needs of our economy. How can the board help ensure that preparing high school students for college and career do not continue to be mutually exclusive agendas?*

As a new Regent, I did not have much information on this topic, though I understand that the search for solutions to the dropout problem is ongoing. Nationally, states, school districts, and local schools have identified a number of policies, strategies and practices their leaders believe will contribute to "beating the odds" in reducing dropout and increasing the graduation rates of affected students.

I asked the Office of the President for some background information. I was informed that experts agree that there is no one formula for success but several themes consistently emerge, including connecting with and engaging students. As with all complex matters, no single initiative holds the key to solving the entire problem, however one strategy that has been advanced for engaging students and improving high school outcomes involves combining college-preparatory coursework with Career Technical Education (CTE). Some states, including California, are developing comprehensive plans to combine CTE with college preparation. The aim of these initiatives is to make high school more meaningful and motivating for an increasing number of students, to increase graduation rates, and to prepare graduates for a range of postsecondary options including college and careers.

I also understand that, over the last several years, faculty and staff of the University of California have taken a range of actions to support the development and teaching of relevant, academically rigorous CTE courses in California high schools. The faculty understands that high-quality CTE courses that combine the rigors of college-preparatory courses with the relevance of career technical courses provide more options to enhance student learning while preparing students for careers and advanced education.

The Office of the President also provided the following information regarding recent UC initiatives in support of CTE-related efforts:

- In California high schools in 2008-09, one out of four CTE courses has been approved by the University of California to meet UC/CSU admissions

requirements – up from less than one percent in 2001-02. In addition, UC works proactively with Regional Occupational Centers and Programs (ROCPs) and other discipline-specific organizations, such as Project Lead the Way, in the development of strategies that facilitate timely course approval.

- At the request of the Legislature in 2008, UC and CSU faculty have provided specific guidance for the approval of academically-rigorous CTE courses in the 'g' elective subject area. CTE courses have been approved in every 'a-g' subject area.
- In partnership with the California Department of Education, UC staff annually provide numerous workshops for high school administrators, teachers and professional organizations around the state to expedite the preparation and review of courses.

The Board of Regents should be regularly apprised on the status of these efforts, and encourage, as appropriate, the University's on-going involvement and commitment to addressing California's most challenging educational issues.

6. *Is there a role for the regents in ensuring that more career technical education courses are approved as meeting the A through G subject requirements necessary for admission?*

The Office of the President has informed me that faculty are actively involved in a number of research-related dropout and CTE-specific initiatives, including the work of Professor Russ Rumberger (UCSB) at the aforementioned California Dropout Research Project as well as recent CTE/multiple pathways research projects and reports coordinated through UCLA's Institute for Democracy, Education, and Access (IDEA). While the responsibility for CTE coursework as it relates to University admission is the province of the faculty, the Board of Regents should be regularly informed on the status of these efforts and encourage both the University and the faculty's continued commitment to CTE course-work and its effect on addressing California's challenging educational issues.

7. *Secondary school programs such as Career Partnership Academies and small career-themed high schools have shown success in engaging at-risk students with "contextualized" or applied learning strategies that draw a clear line from what they are gaining in high school to what they will need to succeed in the adult world of work. What role, if any, should the UC system play in preparing or providing professional development to aspiring and current secondary school teachers so that they are equipped to develop and lead such programs?*



Through teacher institutes, academic preparation programs and a host of intersegmental and other initiatives, the University is currently a partner in helping schools strengthen their CTE curriculum. To the degree possible, these efforts should be considered critical for advancing the development and teaching of academically rigorous and relevant courses in California high schools, and should be considered a priority for state support.

As a new Regent, I asked the Office of the President to provide examples of programs in this area. They described for me one such effort, the California Subject Matter Project, which last year supported over 26,000 teachers (50% are secondary teachers) throughout the state by providing quality professional development in their content areas. Project work is focused on assessing student needs and designing support for topics that are hard to teach and hard to learn. The Project focuses explicitly on instructional access issues such as techniques to support English Learners, to increase academic literacy for adolescents and to engage students in their learning.

The Office of the President also made me aware of the California Writing Project (CWP) and its work at UC Merced and CSU Fresno to focus on the needs of migrant students. Summer writing institutes are designed specifically for these students and teachers engage with students to further their own understanding of how to develop young writers.

### **Admission to the University**

UC admitted a record number of freshman students for the fall 2008 term. Admission offers were sent to 60,000 California high school seniors, a 4.7 percent increase of admitted students over the fall 2007 term. Responding to insufficient state funding for enrollment growth and continuing budget cuts, in January 2009 the board approved plans to reduce enrollment of new California resident freshmen by 2,300 students system wide for the 2009–10 year. Transfer applications from California community college students were allowed to increase by 500 students, while graduate enrollment will remain at 2008–09 levels.

8. *What is the university doing to increase the number of competitively eligible applicants to UC from disadvantaged backgrounds? How do the regents monitor the effectiveness of university K–12 academic outreach programs in preparing these students to become competitively eligible to attend UC campuses? Are you satisfied that these programs are preparing students to succeed once enrolled at a UC campus?*

Working to prepare students from disadvantaged backgrounds to embark on a University of California education is one of the most important outreach efforts undertaken by the University. The University of California has always been committed to improving college opportunities for these students and recently has

worked to update many of its longstanding programs and strategies to ensure that they can continue to meet the academic preparation needs of California students.

The University adheres to a rigorous accountability framework – developed in concert with state policymakers – in assessing its academic preparation programs. The framework contains common goals and assessment expectations for the academic preparation programs, all centered on student achievement. All programs must submit performance reports on their progress toward meeting specific goals and objectives, and individual programs are subject to comprehensive summative evaluations by both internal and external evaluators (provided there is sufficient funding for such evaluations).

It is clear that UC's programs are reaching students who attend the state's lowest performing schools and are achieving their goals. Office of the President data show that 65% of students in UC academic preparation programs go on to postsecondary education compared to 46.3% of California high school graduates. In addition, program participants' retention and graduation rates are comparable to those of similarly situated students who did not participate in these programs. Longitudinal studies on the University's programs document the programs' effectiveness in promoting student achievement, rigorous course-taking patterns, and college enrollment.

9. *Freshman applications for fall 2009 are up approximately 3 percent, and transfer applications have increased by about 12 percent, compared with last year. Combined with lower admission targets at most campuses, students are likely to receive fewer admission offers to UC campuses. How do you, as a regent, balance the admission needs of eligible freshmen and transfer students?*

UC sets separate enrollment targets for freshmen and transfers. Targets are set before each year's budget is known (for example, UC set targets and made decisions for Fall 2008 in early 2008, but final funding levels were not reached until October). In 2008, UC set targets assuming that the enrollment levels in the Governor's compact would be funded. These targets provided full access for eligible applicants at both the freshman and the transfer levels. For 2009, faced with enrollment of 11,000 students for whom UC receives NO state funding, The Regents have endorsed President Yudof's recommendation that we begin to scale back at the freshman level. At the transfer level, however, we are increasing our targets. Transfer students are a high priority for President Yudof, and I agree with him.

The board in February 2009 adopted a new policy to change freshman admission requirements. Included in the proposal is the elimination of the requirement that applicants take two SAT subject tests, and a revision of the guarantee of admission for

those who are in the top 12.5 percent of California high school graduates to instead apply to only about the top 10 percent of graduates. The proposal would also allow individual campuses and majors to recommend certain subject tests, and guarantee that students who are eliminated from consideration because of technical problems with their applications (such as a failure to take an SAT subject test) would have their application reviewed and evaluated.

*10. Critics of the new policy worry that it could decrease diversity because the number of underrepresented students who fall within the 12.5 percent guarantee would decline under the more restrictive admissions pool. What are your views regarding the policy and its impact on underrepresented minority students?*

My understanding is that, under the new policy, the pool of students guaranteed admission will be smaller and slightly less diverse. However, the UC Academic Senate has studied this issue extensively and concluded that the pool of students who will be Entitled to Review is much larger and more diverse. It is the Academic Senate's view that the new policy has the potential to expand access for underrepresented students by bringing into that larger review pool many thousands of underrepresented students who would not previously have been guaranteed a full and comprehensive review.

President Yudof agrees with this position and endorsed the proposal as a way to expand access without diminishing the quality of students who enroll. The language that The Regents used in adopting the new policy emphasizes that the Academic Senate will need to report back to the Board on its outcomes and that the policy may be amended if those outcomes are inconsistent with our goals.

If at that time we see any evidence of a negative impact on diversity, I think we should immediately identify and address any aspects of the policy that might have led to these results.

### **Student Fees, Financial Aid, and College Affordability**

In 2008 the board approved a 7.4 percent student fee increase for the 2008–09 school year for undergraduate, graduate, and professional students. The university redirected 33 percent of revenues generated by the fee increase to financial aid, supplementing other financial aid sources, such as the Cal Grant program. In May of this year, the board is expected to consider a 9.3 percent fee increase for the 2009–10 academic year. The proposal would increase fees for undergraduates by \$662, from \$7,126 to \$7,788.

*11. How is UC addressing the growing concerns about college affordability? What do you believe are the challenges in crafting a student fee and financial aid policy that balances the need to keep fees reasonable, while providing sufficient financial aid to help low- and moderate-income students?*



As a Regent, raising fees is never an easy decision and always done as a last resort. However, facing a severe budget shortfall as a result of the state's fiscal crisis, the 9.3-percent fee increase was approved by the Board of Regents as just one element in a series of actions the University and campuses have taken – and may need to take yet – to confront continuing cuts in state funding while working to protect the academic program and student services as much as possible.

It is important to recognize that UC has been very successful at remaining financially accessible to students at all income ranges, especially in comparison with other institutions. Even with these fee increases, total charges for resident undergraduate and graduate students are expected to remain well below the average of UC's public comparison institutions.

For low-income students and families: The University enrolls a significantly higher percent (32%) of low-income Pell Grant recipients than any other comparably selective institution, public or private. For financially needy students—generally, those whose family incomes are below \$45,000—grants and scholarships reduce UC's net cost of attendance to below that of three of the University's four public comparison institutions. These and other measures of UC's financial accessibility can be found in the University's recently published *Accountability Framework report*.

In addition, according to the Office of the President, after several years of no increases in the maximum amount for Pell Grants, this year's federal stimulus package, the American Recovery and Reinvestment Act (ARRA), provides a \$619 increase for 2009-10. The impact is a \$33 million infusion of new Pell Grant funding for UC students.

California is unique in having both a strong need-based state aid program in the Cal Grant, and a strong institutional aid program at both of the state's four-year public university systems. UC's fee increases are fully offset by increases in Cal Grants and UC's robust financial aid program also grows in response to fee increases through the practice of setting aside a portion (currently 33%) of new revenue from fee increases to augment UC grants. Combined together, these programs provide enough additional grant support for UC's low-income students to cover increases in systemwide fees.

For middle-income students and families: However, Cal Grants and UC grants are not enough to fully maintain UC's financial accessibility. For middle-income families who do not qualify for need-based grants, moderation in fee increases is important. Although middle-income families have continued to enroll at UC despite past fee increases, these families do typically have to absorb the brunt of any fee increases. In recognition of this, for several years now, UC has covered half of the fee increase for students whose family incomes are between \$60,000-\$100,000 and who are not otherwise getting aid to mitigate fee increases.

Federal tuition tax credits are another form of assistance usually available to middle-income families to assist with their costs, although tax credits have not typically offset fee increases. This year's federal stimulus package is an exception to this pattern. The ARRA has provided an unprecedented increase in tax credit eligibility—both increasing the amount of the credit for current recipients (an increase of \$700, which is more than the 2009-10 UC fee increase of \$662) and extending eligibility to families with incomes up to \$180,000. Thus for 2009-10, this expansion in tax credit eligibility is providing most families with incomes up to \$180,000 relief from UC's 2009-10 fee increase.

Additional UC initiatives and efforts: Many families are simply unaware of the availability of various sources of financial aid, so communicating that UC is financially accessible is as important as ensuring that financial resources are available to low- and moderate-income families. Families of prospective UC students need to understand and believe that financial aid resources are available for them so that concerns about paying for a UC education will not deter students from aspiring to a UC education.

A multi-pronged approach is needed to get the message out, but a centerpiece of the communication effort is the Blue and Gold Opportunity Plan that President Yudof introduced and The Regents endorsed this past year. The Blue and Gold message is simple—students from financially needy families whose incomes are below \$60,000 need not worry about how they will cover UC's systemwide fees. Under the Blue and Gold Opportunity Plan such families will receive scholarship or grant assistance that, at a minimum, fully covers UC's systemwide fees. The goal now is to implement a communication strategy that will get this message out to all California families with incomes below \$60,000.

The Legislative Analyst's Office estimates that students at California public colleges and universities will receive about \$500 million in additional Pell Grant funding next year, through the American Recovery and Reinvestment Act (ARRA). Colleges and universities will also receive an estimated \$20 million in additional work-study funds. Tax credits have also been increased to reimburse students for more college expenses.

*12. Does the university take into consideration federal financial aid programs in setting fees?*

UC raises fees reluctantly when revenue is needed to compensate for state budget cuts affecting the ability of UC to deliver a quality education to its students. UC does not raise fees just because additional federal resources are available. However, the fact that there is a variety of financial assistance available helps mitigate the impact of fee increases that are necessary as the state subsidy for educational costs decline.

All resources, such as federal financial aid programs and tuition tax credits, are included in evaluating the impact of fee increases on students and their families. Additional federal resources, along with additional Cal Grant and UC grant funds, help mitigate the impact of fee increases.

*13. To what extent do you believe the Legislature and Governor should be part of UC's decisions about fees?*

The Governor and Legislature already have a considerable impact on UC's budget and therefore its decisions about setting fees. I believe that the current arrangement is a reasonable balance of responsibility.

*14. Are the regents exploring what can be done to help students cover other fast-growing, non-fee costs, such as books and supplies, room and board, transportation, and health care? What options are you reviewing, if any?*

As mentioned above, one approach is to ensure that the value of the grant assistance to UC students keeps pace, not just with fee increases, but with total cost increases. Unlike Cal Grants and UC grants, which are augmented when fees increase, no financial aid program "automatically" grows in response to other cost increases. Thus UC needs to continue advocacy efforts for increases in Pell Grants and other grant programs to maintain the overall value of the financial aid available to UC students.

In addition, UC needs to pursue efforts to contain non-fee cost increases in those areas where the University has some control. The Office of the President has shared with me information that UC campuses are actively engaged, in partnership with student groups, on helping students learn about cost-effective ways to keep their textbook expenditures down. A recent Bureau of State Audit report indicates that students are compensating for rising textbook costs by utilization of used textbooks and less expensive on-line purchases, thereby keeping increases in their actual out-of-pocket book expenditures to a minimum. In addition, UC is exploring the possibility of a systemwide contract for graduate student health insurance which would increase the size of the covered student pool, thereby reducing costs and improving coverage over current campus-based contracts. Campuses are also aware of the impact of higher room-and-board costs on students and are minimizing those costs when possible. For instance, UC San Diego has foregone cost increases in their on-campus housing charges for 2009-10.



## Accountability

Last year UC issued a draft accountability report that represents the first effort to comprehensively assess and present to the public the UC system's progress in meeting key teaching, research, and public service goals across its ten campuses. The report is being issued as a draft for discussion and is now into a period of review and comment. The report is intended to provide transparency and will be used to help guide strategic planning, budgeting, and performance management.

15. *What is the status of the draft accountability report? In your view, how will the report assist the board as it focuses on important policy issues confronting UC system wide and on individual campuses?*

I consider the accountability report to be the single most important document I have received as a Regent. I am extremely supportive of President Yudof's push for accountability and am encouraged by his efforts. The report was provided to the Board this month and is available on-line.

The accountability report is a major initiative. President Yudof and the Board agree that it is critical to give parents, students, elected officials, and taxpayers a clear picture of the performance of the UC system—its successes and its challenges, as well as its failures.

The report will be useful for a number of audiences. It will give you and other policymakers the means to track issues of concern, such as affordability, diversity, and research competitiveness. It will enable you to measure the investment of public dollars in UC. It will allow prospective students and their parents to research graduation rates and indicators of student satisfaction and enable them to make informed choices.

But the most important value may be to the Board. The report is a governance tool that will give us the ability to assess the value and effectiveness of the administration's actions to meet the goals we set as a Board. The report will provide us with the information to formulate the right questions to be asking, to pursue a line of inquiry that brings the critical issues into sharp relief. For example, the report shows how many upper-division California Community College students the University has admitted over time compared to freshmen, by campus. It also shows admit rates of both freshman and transfer students by race/ethnicity and allows us to examine the success of these transfer students compared to entering freshmen.

In addition, the report will give us the data to inform policy and budget decisions and debates. We can, for example, use data in the report to look at changes in the per-student average expenditures for education over time or examine changes in the proportion of undergraduate instruction that regular-rank faculty

perform compared to lecturers. These are all policy issues that we will be very closely monitoring in these difficult budgetary times.

It is very difficult to evaluate UC performance in a vacuum. In the absence of comparative benchmarks, the tendency is to adopt a UC-centric view of higher education. The accountability report offers comparative data and enables us to put the administration's recommendations in a national frame and thus offers the Board new ways to think about the University's future.

As in any large organization striving for accountability and transparency, UC will never be done. President Yudof has accomplished a tremendous amount toward this effort in his short tenure and I look forward to working together on this process.

*16. At each regents' meeting, one campus makes a presentation on its strategic plan. As a new regent, what is your view of the most difficult challenges confronting campuses that have emerged from these presentations?*

To date, only two campuses have made presentations – Irvine in January and Berkeley in February. But even with only two campus presentations, the most difficult issue facing all 10 UC campuses is the urgent need to balance the realities of the current economic crisis and resulting budget cuts, with the need to continue UC's mission of maintaining access and excellence in delivering research, education, and public service. Now more than ever, the University needs the Legislature's and the Governor's support.

### **UC Governance and Decision Making**

UC has been criticized for several years for not fully disclosing compensation packages provided to top management that have been well above the amount publicly reported as their base salaries. In response, the university has repeatedly committed to maintain full public disclosure, transparency, and accountability. In early 2008 the Western Association of Schools and Colleges (WASC) reported that the UC system has significant problems in governance, leadership, and decision making. It reported confusion surrounding the roles and responsibilities of the university president, the regents, and the 10 campus chancellors.

As part of an effort to restructure and downsize the central administrative operations of the UC system, the university offered a Voluntary Separation Program to employees at the Office of the President in January 2008. Some employees who accepted a financial buyout to leave the Office of the President were immediately reemployed elsewhere in the university, with no impact on the amount of their buyout.

*17. How do the regents stay informed of the university's compensation policies? What is the university's policy regarding rehiring retired pensioners? Do you*

*believe regents are kept sufficiently informed regarding campus hiring practices?  
Is the public sufficiently informed?*

I believe the University of California is more transparent in its compensation and hiring policies than most other public entities, including government agencies and public institutions. I am very pleased with the efforts of the University of California to continue to enhance its transparency in compensation policies. Currently, The Regents review and approve all policies and compensation actions for members of the University's Senior Management Group (SMG), as well as compensation actions for other employees with salaries over \$275,000. This amounts to approximately 374 employees in senior leadership positions. As part of its commitment to transparency and public accountability, the University also provides an annual report to The Regents on compensation paid to senior managers. Consistent with legislative requirements, the report details all aspects of senior management compensation, and it is also posted on UC websites to provide public access to the information.

I was not a Regent at the time the 2008 Voluntary Separation Program (VSP) was put in place. However, I am aware that the goals of the program, developed by the UC Office of the President, was to reduce headcount and long-term salary costs at the Office of the President. Despite its appropriate goals, the 2008 VSP, which was not developed by the Board, suffered from problems that were recognized by the Board and by new President Yudof. As a result, in April 2009, the President established implementation guidelines for campus voluntary separation programs, including provisions requiring repayment of any severance payments on a pro rata basis for employees finding new work elsewhere within the University. I believe President Yudof has addressed and rectified this problem.

In addition, to ensure the effectiveness of the University's practices regarding the reemployment of retirees, the University enacted a new policy for retired UC employees who return to UC in staff or senior management positions. The University's policy aims to ensure compliance with Internal Revenue Service rules regarding defined benefit pension plans such as the UC Retirement Plan (UCRP), while continuing to give managers the flexibility to call on a valued resource—retired employees—when needed. Key elements of the new policy include limits on the percent of time and duration of employment, approval authority, and reporting requirements.

Again, my belief is that UC is transparent in its compensation and hiring policies. In addition to the policies mentioned above, The Regents receive regular reports on many issues including the status of UC hospitals and President Yudof's correspondence on matters of interest to the Board.



*18. Are you satisfied that UC is taking sufficient steps to address WASC's concerns regarding UC's governance structure and business practices? What remains to be done in addressing issues raised in the WASC report?*

As a new Regent, I have not been deeply engaged in addressing the issues WASC has raised over the last two years. However, like all members of the Board, I have been apprised of the issues. From the information that has been supplied me, I understand that:

- The final report from the Western Association of Schools and Colleges (WASC) commended the University for the many steps it has taken to address the compensation issue raised in recent years and for its awareness of the need to maintain transparency and conformity with policies while continuing to recruit the best personnel possible. In light of that conclusion, the changes in compensation practices are not detailed here, but can be provided if the Committee so requests.
- Regarding governance, the University commissioned a working group (chaired by a campus chancellor and facilitated by an independent consultant) to evaluate the proper roles of Regents, the President, and the campuses. The Board's Committee on Governance endorsed this report in January 2008.
- The Board created the Committee on Governance to re-evaluate Board governance principles. As a result of the committee's work, the Board has adopted new policies governing Regental education and evaluation as well as new standards governing expectations of individual Regents and the Board.
- The Board established a new senior vice president for compliance and audit as a direct report to the Board for the specific purpose of ensuring a more robust audit and compliance system and proper review of transactions for policy compliance.
- The Board adopted a detailed process for evaluation of the President's performance (and that of other direct reports to the Board).

In terms of work that remains, I am advised that a WASC team will be conducting a site visit in early October. The team will be meeting with senior management and key Regents and will then issue a report, which WASC will then consider. I anticipate the site visit will recognize the Board of Regents' continuing governance refinements.

In January 2009 the Board adopted a plan to freeze the salaries of UC's top administrators, as well as canceled pending bonus payments to employees at the senior management level through 2009–10. More recently, however, the Board granted pay increases, as much as 22 percent, to several senior managers, appointed two new executives, and authorized paid administrative leaves to two former campus chancellors.

*19. How does the board balance the need to attract and retain qualified senior staff, while at the same time providing management effectiveness and accountability against a backdrop of reduced state financial support and likely increase of student fees?*

President Yudof has worked earnestly to implement real cost-saving measures at the University of California. These measures include a systemwide freeze on senior managers' salaries, cuts in bonuses and incentive pay, and a significant and real reduction of the budget at the Office of the President in Oakland—a reduction of \$67 million and 628 in staff headcount over the last two years through program transfers, layoffs and vacancy control. In addition, UC campuses are curtailing faculty recruitment, in many cases by 50 percent or more; reducing hiring of non-teaching staff; severely limiting spending on nonessential costs such as travel; consolidating or eliminating programs; and looking for efficiencies across their administrative organizations – while working to minimize cuts to student programs.

However, I believe that President Yudof must have the Board's full support to create a leadership team of outstanding administrators capable of guiding the University through the toughest economic times it has ever seen. With increasingly reduced state financial support, it is necessary to grant the President some flexibility in his efforts to craft a team of highly competent managers. I applaud his efforts to do this while at the same time reducing the budget of the Office of the President by \$67 million. I know from my own experience in the private sector that doing more with fewer resources is a daunting task.

It is important to note that none of the new executive hires has been paid in excess of current market rates. One existing employee has been asked to fill two vice presidential roles for the salary of one, saving UC roughly \$320,000 per year. Another has been hired to serve as chief financial officer, at a salary well below the going rate for CFOs, to ensure strong financial management and to identify more smart ways for the University to save money. Our newly appointed Chancellor at UCSF is another example of an individual, with impeccable credentials to lead this world-class institution, who chose to leave a much more lucrative position in the private sector and join the University to advance its public mission.

As a Regent, I am committed to keeping the University of California accountable to the public and policymakers. However, I am also committed to allowing for the necessary flexibility to make the decisions we need to hire the best people and to preserve UC as a strong institution for California.

## Research Funding

Both the Governor and Legislature have articulated the importance of transitioning the state from a high carbon economy to a new energy economy. Green technology may be the next “high tech industry” that fuels California’s economic engine. Yet there appears to be a need for greater coordination and strategic investment of state research development and demonstration funds to meet state energy and environmental priorities.

*20. What steps has UC taken to coordinate private and publicly funded energy and environmental research, development, and demonstration to ensure the state achieves the greatest benefit from those expenditures?*

It is the responsibility of UC and The Regents to make sure we do all we can to maximize every dollar—federal, state, public and private—including the funding that we receive for research and development in the areas of energy and environmental research. Much of the energy and environmental-related research that takes place throughout the UC system is funded by federal funds (over half of total UC research funding comes from federal government sources, and an additional 20% comes from private sources). Through successfully competing for federal research awards in these areas, the University brings significant amounts of federal funding into the State.

This is an area that I am passionate about. Over the last 15 years, I have worked on various efforts with different organizations to reduce our nation’s dependence on fossil fuels and explore alternative energy sources. In May 2008, I chaired and organized a non-partisan energy symposium, which was co-sponsored by UC Irvine, Milken Institute, and the New Majority’s Energy Task Force and attended by Governor Schwarzenegger, Attorney General Brown, other elected officials, business leaders, and some of the best scientists in the world. I believe that UC must play a major role in advancing research and innovation in green technology and energy alternatives for the good of California, the nation, and the world.

Most of the federal and privately funded research conducted at UC is responsive to requests for proposals for work in a specific substantive area. While issues of interest to the nation are likely also of interest to California, the University does not have the flexibility to shift the emphasis of a research grant to allocate more research funding to California priorities. That said, many of the University’s R&D projects in these areas focus on matters of significant concern and relevance to California. The results of investigations into broad areas like alternative fuels and carbon emissions can be used to help address California goals such as reducing carbon emissions. There are also more targeted R&D programs that focus specifically on research questions of relevance to California. The Office of the President offers as examples research funded by UC’s California Institute for Energy Efficiency, which has done work specifically related to California’s Global



Warming Solutions Act, regional carbon sequestration projects, hydropower within California, and many other research areas directly related to State needs.

The University's extensive work in these areas can help the state meet its energy and environmental challenges, particularly in coordination with work being done by state agencies like the California Air Resources Board and the California Energy Commission, that play a key role in shaping state and environmental policy. There are many University researchers who work closely with those and other agencies, participating in and contributing their expertise to projects of importance to the State.

Further coordination among private and publicly funded energy and environmental research would be enabled by establishment of a California Climate Institute, which is the subject of pending state legislation – SB 128. I am informed that the University of California is actively working with other academic and research institutions around the state to support this measure, which would create a California Climate Institute to catalyze and fund research and workforce education in areas related to climate change. The institute could serve as a vehicle for extending and improving deployment and expenditure of R&D funds in research areas that would help the state meet its ambitious goals related to carbon reduction and climate change mitigation. There are still a number of details to be worked out about this proposal, but I cite it here as one kind of creative effort in which the University can be involved to help ensure that research funding is directed toward areas that can help the state meet its energy and environmental challenges.

*21. How do you, as a regent, assure that UC's research agenda is robust and directed toward assisting in maintaining a strong California economy without interfering with respected principles of academic freedom? Please be as specific as possible.*

The University of California is universally recognized as a world-class research institution, with faculty who are leaders in their fields across a variety of disciplines. As the state's primary research institution, UC research has long played an important role in maintaining a strong California economy. For example, UC research helps boost the state economy by attracting almost \$3 billion annually in federal funds and over \$180 million annually from private companies. This research helps create new products, improves productivity and leads to the creation of well-paid jobs in California.

The Office of the President indicates that the University has been highly successful in leveraging state funds, obtaining federal and private funds to conduct research that benefits California. Some research collaborations between UC campuses and private enterprise, such as the four California Institutes of Science and Innovation, have been deliberately cultivated through public-private partnerships. These Institutes were launched with state matching

funds to foster economic growth through joint UC-industry research in biomedicine, nanotechnology, telecommunications, information technology and other technologies. Although the state's current economic crisis is quite serious, it is my hope as a Regent that it may be possible in the near future to include other research initiatives as part of future University of California budget proposals. My belief is that funding for research is an excellent investment that contributes to the state's economy and to the quality of life of its people.

I believe that maintaining the strength of our faculty is key to ensuring that the University's research agenda remains robust. UC faculty and researchers are among the best in the world. A total of 49 UC faculty and researchers have won Nobel prizes, including 17 prizes since 1995. 589 UC scientists and engineers have been elected to the National Academy of Science, the National Academy of Engineering, and the Institute of Medicine. Forty-four UC scientists have won the National Medal of Science (US's highest award for lifetime achievement in science).

Respecting the principle of academic freedom is key to maintaining a strong faculty. Academic freedom is, indeed, a core University value, and it is essential to ensure that faculty are free to pursue and disseminate knowledge in their chosen areas of inquiry. As a Regent, I am committed to upholding that freedom, and I do not believe that conflicts with ensuring that UC's research agenda remains robust.

*22. The Legislative Analyst's Office estimates that California universities will be eligible to compete for over \$1 billion in funding for federal research grants from ARRA. Will the board be kept informed of campus or programmatic efforts to obtain federal funds? Will there be any system wide direction given to campuses with respect to applying for these competitive funds?*

The federal stimulus bill did, indeed, make significant funding available for federal research awards, and we expect that the University of California will be very competitive for much of this funding. Estimates are that the American Recovery and Reinvestment Act (ARRA) made available a total of \$21.5 billion in federal research and development funding -- \$18 billion for the conduct of research, and \$3.5 billion for research facilities and capital equipment. Since federal research support has been declining in real terms since FY 2004, the final stimulus bill provides an immediate boost that will allow federal research funding to see a real increase for the first time in five years.

This is good news for UC, because federal funds account for over half of the University's research expenditures. It is difficult to know exactly how much research money the University of California will ultimately receive from the ARRA. However, the Office of the President expects the University to be very successful in competing for these funds, based on the excellent track record of

our campuses. I have been informed that 65% of the University's 2007 federal research awards came from just two federal agencies – Health & Human Services (primarily through NIH) and the National Science Foundation (NSF). Both of these agencies received large increases in the stimulus bill. NIH received \$10.4 billion in stimulus funding, increasing its funding for research awards by about one-third. NSF received \$3 billion, about a 50% increase over 2008 budgeted levels. Based on UC's historic rate of successfully competing for funds from these two agencies, a very rough estimate is that UC might expect to capture over \$700 million in stimulus funding from these two agencies alone. In addition, UC expects to compete well for ARRA funding from the Department of Energy, NASA, the National Oceanic and Atmospheric Administration, and other agencies that received ARRA funding.

Because the University understands the need to be able to report – to The Regents, to federal agencies, and to the public – on the amount and use of ARRA funding the University receives, the UC Office of the President has led a systemwide effort to modify campus and central office data systems to allow separate tracking of ARRA-related awards and expenditures. As the ARRA funding process continues to move ahead, it is my intention to ask President Yudof to provide regular reports to the Board on the University's progress in competing for ARRA research funding and the use of ARRA funding.



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May 5, 2009

*William Hauck*  
*Questions & Responses*

William Hauck

Dear Mr. Hauck:

The Senate Rules Committee will conduct a confirmation hearing on your appointment as a member of the California State University (CSU) Board of Trustees on Wednesday, June 10, 2009. We request that you appear. The meeting will begin at 1:30 p.m. in Room 113 of the State Capitol.

We have prepared the following questions to which we would appreciate your written responses. Please provide your responses by May 26<sup>th</sup>.

We would also like to receive an updated Form 700, Statement of Economic Interest, by May 26<sup>th</sup>.

**Background**

The CSU system consists of 23 campuses, almost 450,000 students, and 47,000 faculty and staff. The system is directed by the Master Plan for Higher Education to select first-time freshmen from the top one-third of graduates of California public high schools.

**Statement of Goals**

1. *Please provide a brief statement detailing the accomplishments you have achieved while serving as a member of the CSU Board of Trustees, as well as remaining goals you hope to accomplish while continuing to serve on the board. How do you measure your success as a board member?*
2. *How do you evaluate the extent to which the CSU system is succeeding in its mission? What yardsticks are most important to you as you make this determination?*

3. *Some 120,000 young people drop out of high school and middle school annually in California. What role, if any, should CSU play in turning the dropout crisis around? How does the board weigh in on what should be done?*

### **Governing Board Oversight**

The board is charged with developing system-wide policies and overseeing their implementation. In November 2007 the California State Auditor released a critical report of CSU's executive compensation policies. Among its findings, the audit concluded that the university failed to adequately monitor its compensation policies and continued to justify increases in executive compensation, based on questionable methodology. In response to the compensation audit, CSU concurred in nearly all instances with the auditor's recommendations.

In November 2008 Chancellor Charles Reed approved salary increases of up to 19 percent for 9 vice presidents at 4 of CSU's 23 campuses, and approved 11 new appointments of vice presidents at 9 campuses. A committee of the board reviewed the same pay raises and endorsed separate salary raises for additional individuals.

4. *What role does the board play in reviewing and approving executive compensation policies? Does the board periodically review and reassess these policies?*
5. *What is the board doing to reevaluate its overall capacity to oversee and hold the system accountable on matters of compensation and other key issues?*
6. *How does the board balance the need to attract and retain qualified senior staff, while at the same time providing management effectiveness and accountability against a backdrop of reduced state support and likely increase of student fees?*
7. *Do you think CSU has adhered to the auditor's recommendations that CSU committed to adopt? If not, why not? What issues are still outstanding and need to be addressed?*
8. *When the university receives no funding for cost of living increases (as is the case in 2008–09), the university must shift funds from other sources in order to cover any cost of living increase that it chooses to grant. Where did the money for the 2008 salary increases come from, and do you think this money was best spent on executive salary increases?*

### **College Affordability**

The 2008–09 budget included a student fee increase of 10 percent for undergraduates. This fee increase was tied to neither an inflationary index nor a specified share of cost. Annual undergraduate fees increased from \$2,772 in 2007–08, to \$3,048 for 2008–09.

CSU uses up to one-third of new student fee revenues each year for financial aid to mitigate the impact of fee increases. The 2009–10 Budget Act was enacted in February and assumes a 10 percent fee increase for CSU students. However, the board will have to consider and vote on any such fee increase.

9. *The board has the authority to establish, adjust, and abolish student fees. How does the board ensure that it is accountable to the public each time it increases fees? As a board member, what are the key factors you consider when deciding whether to approve student fee increases?*
10. *California lacks a consistent fee policy for postsecondary education. During tight budget years, student fees often increase quite steeply. Do you believe the state should develop a long-term state funding and student fee policy? If so, what role should the board have in developing such a policy? To what extent should the Governor and Legislature be involved in CSU's decisions about fees?*
11. *What is the board doing to evaluate the affordability of a CSU education, beyond just the cost of student fees? Has the board examined the increased costs of textbooks and whether more state university grant aid should be available to help students cover this expense and other costs of attending college? To what extent does CSU take into account opportunities for federal financial aid, such as Pell Grants and the American Opportunity tax credits?*
12. *Affordability is affected by how much it costs CSU to provide educational services. What steps has and should CSU take to hold down these costs?*

## **Enrollment Growth**

In anticipation of the state's worsening fiscal crisis, for the first time in its history CSU has declared a system-wide impaction that will result in fewer students admitted for fall 2009. It is estimated that CSU is currently providing access to 10,000 students for whom it receives no state funding. Declaring system-wide impaction will require CSU campuses to manage student enrollment down to the level for which they receive funding by applying additional admissions criteria, if necessary. Application deadlines at some campuses have already been moved up to November 30. Applications for fall 2009 are up by almost 20 percent from this time last year, with even greater demand by community college transfer students (36 percent). Community college transfer students will not be accepted unless they have completed their lower division course work.

13. *The fall 2009 freshman admissions cycle took place in a challenging context, which included budgetary constraints and unfunded over-enrollments on most campuses. Potentially, CSU may curtail enrollment by up to 10,000 students throughout the system. Are the trustees informed of any trends that can be detected from the preliminary admissions data as to the effect the system-wide impaction has had on*



*applicants and their preferred campus of choice, in addition to whether certain parts of the state were more adversely affected than others as a result of the impaction?*

14. *For the last several years, CSU has been engaged in efforts to reach out to students who have historically not been part of higher education in California. What effect do you believe the system-wide impaction will have on these students? What steps is CSU taking to inform underserved communities and the high schools serving these students of the changes in application deadlines, along with the potential for differing admissions criteria among the CSU campuses?*
15. *The 2008–09 Budget Act did not set enrollment levels for CSU, but instead allowed CSU to decide how to accommodate unallocated reductions in state funding. This has led to conflicting perspectives about what level of enrollment was funded in 2008–09. The Legislative Analyst’s Office recommends that the Legislature adopt specific 2009–10 enrollment targets for CSU. In your view, should the Legislature take steps to adopt specific enrollment targets for CSU? What steps should CSU take to make more efficient use of its enrollment funding?*

### **Academic Preparation and Early Assessment**

More than half of all incoming CSU freshmen require English or math remediation during their first year at the university. These freshmen have all taken the required college preparatory curriculum in high school, only to find out after admission to CSU that they need further preparation. In response to this challenge, CSU has developed an early assessment program to provide high school students an indication of whether they possess the academic skills needed to succeed at CSU. This program also offers students needing stronger academic skills the opportunity to take basic skills classes in their senior year of high school.

In general, outreach refers to those activities aimed at helping middle school, high school, and community college students from disadvantaged backgrounds to enroll in college. Past outreach evaluations have not conclusively demonstrated whether participating students would have been either eligible or likely to attend college without these services.

16. *How does the board monitor the effectiveness of the early assessment program and whether it has helped increase the graduation rates of CSU students needing remediation in basic skills? Are you satisfied with how the policy is being implemented?*

17. *How does the board evaluate which types of outreach programs are most effective in helping disadvantaged students enroll in college? Is the board kept informed of students' remediation needs once enrolled at CSU and whether they are being met appropriately?*
18. *How do you evaluate the quality of coordination between CSU outreach programs and K–12 schools to determine if it provides the best mix of outreach interventions? Is this an appropriate area for the board to weigh in?*
19. *High school students who want to pursue a college prep curriculum in California must devote nearly their entire schedule to completing A–G course work, leaving little room for career tech or other electives. How does the board monitor and address this issue? Do you believe the current requirements are the best ones, or have you considered easing them even slightly, as some have suggested, by requiring A–F subject requirements necessary for admission?*
20. *Secondary school programs such as Career Partnership Academies and small career-themed high schools have shown success in engaging at-risk students with “contextualized” or applied learning strategies that draw a clear line from what they are gaining in high school to what they will need to succeed in the adult world of work. What role, if any, should CSU play in preparing or providing professional development to aspiring and current secondary school teachers so that they are equipped to develop and lead such programs?*

## **Title IX**

In 2008 Fresno State dropped its appeals of jury verdicts in favor of former coaches Stacy Johnson-Klein and Lindy Vivas and agreed to \$9 million and \$5.2 million settlements, respectively, for Title IX violations. Settlements were also reached with administrative assistant Iris Levasque for \$125,000, and preemptively with softball coach Margie Wright for \$605,000, according to news reports. More recently in February 2009, a former Olympic shot-putter became the latest female coach to sue Fresno State, alleging gender discrimination and Title IX retaliation.

21. *Title IX violations at Fresno State have resulted in very costly settlements. How is the board monitoring this situation to assure compliance with the law? Are you satisfied that the problems at Fresno State are being addressed? How does the board monitor Title IX activities at the other campuses?*

## **CSU Response to Workforce Needs**

A recent report by the Public Policy Institute of California finds that California could run short of college graduates needed to keep its economy going by 2025. While the number of college-educated workers increased from 28 percent in 1990 to 34 percent in

2006, the pace is likely to slow because of California's fast-changing demographics. In the coming decades, slower growth in the supply of college-educated workers will be a limiting factor that changes the path of the state's economic growth.

In recent years, significant attention has been focused on CSU's ability to train and educate enough teachers and nurses to supply state workforce needs. CSU also educates students planning to enter other high-demand fields, such as information technology, social work, and other allied health care fields.

22. *What is the board doing to analyze the state's long-term workforce needs and determine the system's capacity to respond to educating students to enter high-growth fields?*
23. *What is the appropriate role for the board in terms of helping campuses strengthen their capacity to respond more quickly to the demand for programs that train students to enter high-growth fields? Conversely, should the board respond to declines in enrollment in programs that are no longer in demand because of changing workforce needs?*
24. *What can the CSU board do to ensure that its teacher preparation programs are preparing teachers to be capable of meeting the challenges of high-need schools, core subject matter areas, geographic regions, and special-needs programs?*

California is a national and international leader on environmental, natural resource, pollution prevention, and energy issues. The green technology sector of the state's economy is rapidly growing. As the green economy grows, it will be accompanied by an increased demand for a highly skilled and well-trained "green collar" workforce.

25. *How does CSU propose to align the opportunities of California's green economy with educational and career development programs at its campuses? Is this an issue area on which your board provides guidance? If so, how?*

Please send your written answers to these questions to Nettie Sabelhaus, Senate Rules Committee Appointments Director, Room 420, State Capitol, Sacramento, CA 95814.

Thank you for your help.

Sincerely,

DARRELL STEINBERG

DS:LG



William Hauck  
Responses

May 26, 2009

Honorable Darrell Steinberg  
Chairman  
Senate Rules Committee  
California Legislature  
State Capitol, Room 420  
Sacramento, California 95814

Senate Rules Committee

MAY 26 2009

Dear Senator Steinberg:

**Appointments**

In conjunction with the hearing on my reappointment as a member of the California State University (CSU) Board of Trustees I am writing in response to the questions you have posed regarding various aspects of the Boards' responsibilities and the system operation.

Statement of Goals

1. Accomplishments.... I believe the CSU is an effectively run system and the Board functions well in establishing policy for the University and in hiring and evaluating system executives and campus Presidents. In my role as Chairman of the Board Finance Committee I believe we have directed and approved a number of innovations in system wide financial processes that have led to significant savings and a very strong credit rating.
2. Within the financial constraints in which the system must function we are succeeding in graduating about 90,000 students annually with Bachelors and Masters degrees. Most of the graduates go immediately into the California workforce. However, as a recent PPIC study has outlined, by 2025 we will be at least 1 million degrees short of meeting workforce needs at that time. Clearly we must find ways to increase the number of graduates. Toward this objective the Board led and adopted a new strategic plan entitled "Access with Success." We are in the process of implementing the plan. The question is whether we will have adequate resources to achieve its objectives.
3. High School and Middle School Dropouts. This is a critical problem for California. We know that effective teachers can motivate and retain students in the K-12 public schools. Since the CSU trains in excess of 60 percent of California's teachers it seems clear that we are not doing as well as we must in training the teachers. To address this issue we have created the CSU Center to Close the Achievement Gap with the objective of improving CSU teacher training on every campus. The CSU must be in partnership with the public schools to reduce dropout rates throughout the state. The Board is responsible for assuring that progress is being made toward this objective.

### Governing Board Oversight

4. The Board is responsible for reviewing and approving compensation levels for campus Presidents and system executives including the Chancellor and all Vice-Chancellors. For other management level employees (also known as MPP employees) the Chancellor has authority to establish pay policies and programs to be administered by campus Presidents.

This is an area to which the Board pays close attention because of the public nature of the decisions as well as the constant need to try to remain competitive with the existing market for these positions. Most recently, the Board reviewed its executive compensation policy in 2007.

At the November 2008 Board meeting the Chancellor reported on salary increases for the period January 22, 2008 through October 31, 2008. The Chancellor approved salary adjustments for 23 Vice Presidents. Of the 23 nine were new hires and two were intermittent/ temporary appointments. The Board is not required to approve these decisions but it has required the Chancellor to publicly report on these actions annually in September. Of 47,000 CSU employees 102 are Vice Presidents.

5. Subsequent to the Bureau of State Audits (BSA) report regarding executive compensation in the CSU the Board created an ad hoc committee to review the recommendations of the state auditor. After a careful review of the proposals the Committee made specific suggestions to address the issues raised by the auditor. Those suggestions were adopted by the Board in 2008. On November 4, 2008 the Chancellor reported to the BSA on the implementation of changes in procedure to comply with the BSA recommendations.
6. This is one of the most difficult problems the Board is required to confront. Numerous professional compensation studies have revealed that in many job categories the CSU is not at market. This is especially true when it comes to senior staff. In addition, many senior staffers are eligible for retirement and with little prospect currently for a salary increase may be incented to do so. The present prospect for major state support reductions will put increasing pressure on all CSU staff to maintain a high quality of service provision.
7. The CSU has definitely adhered to the auditor's recommendations. The Chancellor now approves all Vice Presidential salaries and all executive compensation elements are publicly reported to the board. In the future the CSU will conduct a total compensation study which also will include benefits. Also, payroll and salary transaction training has taken place at all campuses.
8. There was only one executive pay increase granted in 2008. It was to an interim Vice Chancellor who was promoted to Vice Chancellor. Also during 2008 two newly appointed Vice Chancellors were appointed along with one campus

President. Most significantly, the Board recruited and approved hiring for Dr. Jeri Echeverria as the new Executive Vice Chancellor and Chief Academic Officer with a set salary that was \$18,000 below that of her predecessor. Executive salaries in the CSU still lag the market by 39.6 %.

### College Affordability

9. Student Fees. Affordability of a CSU education is a major concern of the Board. Fee increases always are considered very carefully. Even though fees have risen in the last few years they are still below the CPEC comparable institutions. Nevertheless, we know that the cost of living in many areas of California is a factor potential students must consider when choosing a college. The Board resorts to fee increases only when absolutely necessary and always sets aside one-third of the increase for State University Grants. The system also was very active recently in Washington advocating for increasing the maximum Pell Grant award and the total Pell Grant dollars allocated to the CSU. Whenever fees are increased as much public notice as possible is provided and all decisions are made in open public meetings.
10. Fee Policy. The most important elements of a fee policy are that they be affordable, predictable and reliable. Parents and students need the ability to plan for fees and the assurance that they can rely on a steady policy that doesn't change abruptly. In 1993 the CSU did establish a fee policy that met the above criteria and promised that fees would not exceed one-third of the cost of instruction. Our ability to implement the policy has often been upset when in good economic times the Legislature decided to "buy out" a proposed (modest) fee increase. Over the last 18 years on average fees have increased by 8 per cent per year. I do not believe the Governor and the Legislature should decide on fees but the state budget process and the availability of General Fund resources in support of the CSU inevitably "involve" the two branches in the fee issue.
11. The Board is constantly evaluating the affordability of a CSU education especially in relation to the objective of graduating more students. Every potential financial aid avenue is pursued. Additionally, the board has made it explicit that student loans be the last financial aid option preceded by all possible grant opportunities.
12. Every effort possible is made to hold down costs. However, it must be recognized that the system's major operating cost is salaries and benefits for all employees and each year there is understandable pressure to increase compensation for everyone. Not to do so whenever possible would not be equitable for employees and presents a real recruitment barrier for the University.

### Enrollment Growth

13. A review of the data shows that overall FTE applications are up 2 percent over fall 2008. Regional differences range between the LA Basin (down 1 per cent) to the Central Coast (up 5 percent). As to ethnicity Caucasian and Latino



applications increased while African-American and Asian/Pacific Islander applicants declined slightly. It appears that the early application closings had little or no negative impacts.

14. This is a major priority for the CSU. Since our public schools now have a majority minority enrollment it is especially important to inform students and parents of the opportunities available to them in the CSU. "How to go to College" posters have been distributed in several languages throughout the state (paid for by a private donation) and extensive use is made of the internet as well as school and community college counselors. For several years now the Chancellor has conducted "Super Sundays" in African-American churches throughout the state. Similar days have been conducted in Latino churches. Overall, applications from both ethnic groups have increased as a result of these efforts.
15. The level of funding provided to the CSU by the legislature and Governor as well as net fee revenue drives the determination of what level of enrollment can be supported. The CSU would like to accommodate every eligible student but can do so only when sufficient resources are available. Especially in times of scarce resources the University should be permitted to manage its enrollment in a manner that provides equitable treatment of all potential students. In addition, the system is working very hard to move students to graduation as quickly as possible with no more than the number of academic units required for their major. Doing so frees-up space for entering students. Today in the CSU the number of units required for graduation is 120 in nearly 80 percent of the majors. Students are discouraged from taking more than the required number and from repeating classes to achieve a higher grade.

#### Academic Preparation and Early Assessment

16. The Early Assessment Program (EAP) was developed in collaboration with the State Department of Education. It assesses 11<sup>th</sup> grade student readiness for college in English and Math. Questions in each area are added to the California Standards Test (CST) and participation is voluntary.

Since its inception six years ago the response to the EAP has been overwhelming. In 2008 approximately 352,943 high school juniors opted to take the test. For English this was a 79 percent participation rate and for math 70 percent participated. The Board has paid close attention to this program for a number of reasons. First, if students have basic proficiency in these areas they are likely to graduate. Second, the cost to remediate students who are admitted has become a major burden for the University. Third, this is an area where the CSU and the state's high schools need to work in close cooperation. The CSU also has offered on-line and summer courses in these areas for students who are not sufficiently proficient to meet our standards.

We are satisfied with the program and its implementation but not with the student results. It is clear that much more work needs to be done with K-12 schools to be

sure that when graduating from high school students are ready for work or college.

17. The Board and Legislature annually receive a report on Student Academic Outreach Program Activity. The areas of outreach include: K-14 Students, K-14 Institutions, Parents, Families, Community Members, and the EAP. Most of these efforts are aimed at reaching "disadvantaged" students as well as those that are not. The Board pays close attention to enrollment levels of these students and as noted above is very aware of remediation issues. Every effort possible is made to quickly remediate all relevant students. As you can imagine this is a challenging task
18. All 23 CSU campuses have developed, implemented and administered nearly 500 outreach programs at more than 3000 K-12 schools. The programs include tutoring, mentoring, field trips, information and motivation activities. For example, recently CSU Monterey Bay conducted an on-campus program for nearly 500 middle school students from the Salinas Valley. Over time, these programs are effective if they are consistently sustained. In addition to the reports received by the Board this is a subject of discussion during all Presidential evaluations.
19. While I am certainly not an expert in this area I am informed that it is possible today in California's high schools for a student to meet the requirements for high school graduation as well as for Career Technical Education (CDE) and CSU/UC eligibility.
20. As the primary provider of public school teachers in California the CSU must play a major role in responding to all educational innovations in the K-12 system. Currently at several campuses with the support of an external funder these schools are piloting a program to train aspiring teachers in the context of career-themed learning. Four CSU campuses have augmented their approved secondary credential programs to support candidates' field placement in career-themed settings.

#### Title 1X

21. The Board now receives an annual report on Title 1X compliance. The subject also is discussed at other Board meetings because of its importance. There is no doubt that the problems at Fresno State substantially raised the level of visibility and concern on the Board related to women's Athletics. I am satisfied that the Fresno State situation has been addressed and largely remedied. It also should be noted that this is a subject regularly addressed during Presidential evaluations. There can be no excuse for lack of compliance in this area.

#### CSU Response to Workforce Needs

22. Since the CSU is critical to meeting workforce needs in the state extensive research and work is done prior to the approval of any new degree. Individual

campuses also continually evaluate existing degree programs to be sure that they remain relevant to current and future workforce needs. In addition CSU campuses have professional advisory boards and the Chancellor's office is very active in evaluating new program requests.

One specific example illustrating our commitment to analyzing the state's long-term workforce needs and acting on recommendations from industry was the establishment of 15 Professional Science Masters Programs in fields such as biotechnology, biostatistics, medical product development and environmental sciences.

The same thing can be said of the CSU's role in preparing students for high growth and demanding professions in the health field. The CSU also is partnering with the state's Community Colleges (CCC) to form regional education coalitions to expedite training in health professions.

Finally, the CSU is working with a variety of high demand industries including agriculture, engineering, entertainment and tourism.

23. I believe the CSU is responding quickly to high growth workforce needs (as outlined above) and regularly evaluating existing programs for their current relevance. The Board needs to pay close attention to each of these areas to assure citizens and the legislature that scarce public funds are being expended wisely in furtherance of the CSU's primary mission of workforce preparation.
24. As discussed in answer to previous questions (see especially # 3) this is a major and important responsibility for the Board. It could not be otherwise since the CSU trains more than 60 percent of the state's public school teachers. The Chancellor and the Board are constantly monitoring and tracking teacher training programs to be sure that they are relevant to today's needs. The overall results in our public schools indicate that we have much work to do in this area in partnership with the leaders of K-14 education in the state. Available data indicates that we are doing better but not yet well enough.

#### Green Economy

25. This subject is addressed directly by the Board in their recently approved strategic plan entitled "Access to Excellence." In that plan there is a commitment to sustainability including the design and implementation of new degree programs relevant to the development of new "green economies."

There are diverse efforts underway in aligning the CSU's educational programs with the needs of the evolving "green economy."

For example, the CSU is supporting UC's proposal alongside CCC and private higher education to create a California Climate Change Institute. Chico State and Butte College are partnering to offer an environmental Sciences B.S. degree.



The above represents an excellent example of the CSU responding to a demanding and high growth workforce need in our economy.

I appreciate the opportunity to respond to these questions and look forward to discussing them with the Rules Committee on June 10, 2009.

Cordially,

A handwritten signature in black ink, appearing to read 'W. Hauck', written over the word 'Cordially,'.

William Hauck  
President



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The Honorable Darrell Steinberg, Chair  
Senate Rules Committee  
State Capitol, Room 400  
Sacramento, California 95814

RE: CALIFORNIA STATE UNIVERSITY, BOARD OF TRUSTEES – CONFIRMATION  
HEARING, June 10, 2009

### Appointed Members

Dear Senator Steinberg:

Jeffrey L. Bleich  
Chair

Herbert L. Carter  
Vice Chair

Thank you for the opportunity to respond to your inquiries as we move towards the June 10<sup>th</sup> hearing on my confirmation as a member of the California State University (CSU) Board of Trustees. Below please find my responses for your review. I look forward to meeting with each of you, fellow committee members and your staff in the coming days to discuss my interest in this important public service role.

### Statement of Goals

**Question 1: Please provide a brief statement outlining the goals you hope to accomplish while serving as a member of the CSU Board of Trustees. How will you measure your success?**

Roberta Achtenberg

Carol R. Chandler

Debra S. Farar

Kenneth Fong

Margaret G. Fortune

George G. Gowgani

Melinda Guzman

Curtis Grima

William Hauck

I am the son of an immigrant mother and a father who was a United States (U.S.) citizen that was "repatriated" during the depression at a young age along with his family. My father returned to the U.S. without much of an education and not knowing any English and worked in the fields of California following the crops. Knowing this was the land of opportunity he enrolled in night school and learned English so he could get a job in a factory and raise a family. He knew he wanted better for his children so he pushed us to go to school and get an education.

Raymond W. Holdsworth

Linda A. Lang

A. Robert Linscheid

Peter Mehas

As the son of a first generation American my exposure to higher education and careers outside of the factory and labor fields was limited. In high school I was encouraged to apply to all universities but the proximity of Cal State Fullerton suited me as well as my Hispanic culture of staying close to your family. If it was not for the outreach, accessibility, affordability and financial aid I would not have been able to attend college. I owe all of my success to my education through the California State University (CSU) system.

Henry Mendoza

Lou Monville

The goals that I hope to accomplish while serving as a member of the CSU Board of Trustees are as follows:

Craig R. Smith

- Strive to keep the cost of education affordable and accessible to all who want it in the State of California. This is very challenging in the current economic environment.

Russel Statham

Glen Toney

Senate Rules Committee

MAY 27 2009

Appointments



- Help reduce the dropout rate among high school and middle school children through outreach and education. This is a huge problem for the Hispanic population in particular. With the demographics changing and expected continued growth in the Hispanic population this is an issue that must be the focus of our efforts. I believe that the state of California and the CSU system together must address this issue. This is a social, economic and a workforce issue.
- Keep the CSU system economically healthy. This is a delicate issue since we depend on State funding. As stewards of the system, we must get creative with funding and containing costs without affecting the great quality of our education.
- Keep the CSU as the premier educational system in the state of California by providing for an educated workforce for our new "green" economy. We need to make sure that everyone in our society has the opportunity to participate in the economic rewards this state and country have to offer.

I will measure my success by seeing the CSU system flourish by providing an affordable and quality education, seeing our workforce ready for the future and stemming the tide of the dropout trends in our communities.

***Question 2: How will you evaluate the extent to which the CSU system is succeeding in its mission? What yardsticks are most important to you as you make this determination?***

I believe that we will see that the CSU has succeeded in its mission when there is still a great demand for its education, its stays accessible and affordable to all. We will also consider ourselves successful if California stays in the forefront of all technologies and trends and is continuing its work to meet the needs of our workforce today and in the future.

As I mentioned earlier, with the changing of the demographics in the State, we must stem the dropout rate in Hispanics and increase their involvement in higher education. If not a very large portion of our population will not be able to participate in the economic rewards the State has to offer. And therefore I believe our system will then fail.

***Question 3: Some 120,000 young people drop out of high school and middle school annually in California. What role, if any, should CSU play in turning the dropout crisis around? How does the board weigh in on what should be done?***

The California State University should and does work collaboratively with K-12 in reducing the dropout rate through various academic preparation and outreach programs. One effort I am particularly interested in is the partnerships CSU and its campuses have with community-based organizations such as the Parent Institute for Quality Education (PIQE) and black churches throughout the year to help parents and families ensure that their children are ready and prepared to not only graduate from high school but succeed in college or the workforce. As one of the first in my family to get a college degree, I know what value these efforts have within the family not just with the students and believe that will continue to show great success. We recently had a report from our staff about these programs and I was thrilled to hear that we were seeing double digit increases in applications from these very populations.

As a Board member I work with my colleagues to set the tone from the top. We lead not only by our oversight and policy direction but also working closely with the Chancellor and campus presidents; participating in community activities; reaching out to business, employers and others to learn about what

they need from the CSU; and of course meeting as often as possible with students, faculty, staff and others working hard every day to succeed and make CSU the best it can be.

***Question 4: What role does the board play in reviewing and approving executive compensation policies? Does the board periodically review and reassess these policies?***

The Board established a compensation philosophy relating to executive compensation (September 17, 2007) and has revised policies regarding executive transition and trustee professorship programs. The Board's committee for university and faculty personnel reviews and approves recommendations on appropriate compensation levels for executives that are then ratified by the full board.

As a newer member of the Board I was not specifically involved in the development of all of these policies in 2006 and 2007 but have been briefed on them and believe that they are appropriate and responsive. I believe these policies ensure that we operate in a manner that is expected of a public entity such as the CSU without negatively impacting our ability to attract and retain the best to our system.

***Question 5: What is the CSU board doing to reevaluate its overall capacity to oversee and hold the system accountable on matters of compensation and other key issues?***

The Board created an ad hoc committee in 2007 to evaluate the recommendations of the state auditor. The committee made specific suggestions to address the issues that were raised, and were adopted by the Board in 2008. The Chancellor is monitoring implementation and issued a report on progress to the Bureau of State Audits (BSA) on November 4, 2008.

***Question 6: How does the board balance the need to attract and retain qualified senior staff, while at the same time providing management effectiveness and accountability against a backdrop of reduced state support and likely increase of student fees?***

The Chancellor and the Board struggle with this issue constantly. We compete with both the private sector and public universities in our search for executives, staff and faculty. We work with the Chancellor to ensure that our executive salaries are competitive and within our adopted policies. We also monitor this issue constantly not only during public meetings but as we participate in campus presidential searches and evaluations.

***Question 7: Do you think the CSU has adhered to the auditor's recommendations that CSU committed to adopt? If not, why not? What issues are still outstanding and need to be addressed?***

I believe that the CSU has adhered to the auditor's recommendations that we committed to as outlined in the November 4, 2008 letter from Chancellor Reed to the Bureau of State Audits (BSA). We have conducted payroll and transaction training for campus personnel, developed a new policy with regard to vice presidents' salaries and receive reports from the Chancellor on vice president salaries, vice president compensation, executives who participate in the trustee professor and executive transition programs and relocation expense for executives. We also plan to conduct a total compensation report to include benefits.

***Question 8: When the university receives no funding for COLAs (as is the case in 2008-09), the university must shift funds from other sources in order to cover any COLA that it chooses to grant.***



***Where did they money for the 2008 salary increases come from, and do you think this money was best spent on executive salary increases?***

There were no pay increases in 2008 except one pay increase granted to a CSU executive when an interim vice chancellor was promoted to the permanent position. Other executive salary actions by the Board were to approve the initial salaries for two newly appointed vice chancellors and a campus president. Just recently we approved the appointment of Dr. Jeri Echeverria as the incoming Executive Vice Chancellor and Chief Academic Officer of the system at a rate \$18,000 BELOW her predecessor, Dr. Gary Reichard.

The only other increases that may occur are those for represented employees which are based on contracts ratified by the Board.

***Question 9: The board has the authority to establish, adjust, and abolish student fees. How does the board ensure that it is accountable to the public each time it increases fees? As a board member, what are the key factors you will consider when deciding whether to approve student fee increases?***

The Board takes the issue of fee increases very seriously. I am a product of the CSU system and I know how sensitive many families and students are to fee increases. As a Board member, the key factors I will consider when deciding whether to approve student fee increases will include but are not limited to: level of state support for the CSU; impact on students, especially for low income students; level of funding set aside for our State University Grant (SUG) program; availability of federal Pell grant awards and other financial assistance; and finally whether the fees are as moderate, predictable and affordable in the context of the state funding available to the system to protect the quality of our programs and services.

***Question 10: California lacks a consistent fee policy for postsecondary education. During tight budget years, student fees often increase quite steeply. Do you believe the state should develop a long-term state funding and student fee policy? If so, what role should the board have in developing such a policy? To what extent should the Governor and Legislature be involved in CSU's decisions about fees?***

The CSU Board of Trustees has a fee policy adopted in 1993 which is consistent with my views outlined in Question 9. I believe that this is an appropriate approach especially in the context of severe budget reductions to the system and the role the legislature and governor play in these decisions through the annual budget deliberations.

***Question 11: What is the board doing to evaluate the affordability of a CSU education, beyond just the cost of student fees? Has the board examined the increased costs of textbooks and whether more state university grant aid should be available to help students cover this expense and other costs of attending college? To what extent does CSU take into account opportunities for federal financial aid, such as Pell Grants and the American Opportunity tax credits?***

The CSU regularly evaluates the key components driving the cost of education as much as we can within the restraints of statutory restrictions as well as contracts with our 13 unions. These costs include health care, risk management, construction, workers compensation, salary and wages including hiring freezes and travel restrictions.



We are serving more students, with less state support and have been doing so even before these latest proposed cuts for 2009-10. Every day I believe our faculty and staff are finding new ways to do our work within these limited means resulting in efficiencies just on the natural.

The Board has received reports at our last two meetings on how we are using technology to teach students and I am confident that we are moving in the right direction on providing even more courses and full programs online. We also have been recognized by the BSA for our work on the Digital Marketplace to provide textbooks and others materials to students through our digital library. Additionally, the CSU is implementing BSA recommendations for timely placement of textbook orders and faculty sensitivity to textbook costs, enabling bookstores to get the best prices for students.

The CSU has been active in Washington D.C. to ensure that our students get the most support possible through federal aid programs including Pell grants. As a result more than 120,000 CSU students are receiving Pell Grants, providing an increase of \$81 million, upping the maximum award by \$619 to \$5,350. The federal stimulus package also provided more funds for the work-study program, which will allow an additional 1,400 CSU students to participate in the program and earn a combined \$3.5 million. Finally I am told that the American Opportunity Tax Credit will also benefit CSU students and families. The tax reductions available for CSU students and families for the Tax Year 2009 total an estimated \$33 million.

A fact that was shared with me that shows the CSU is looking to help students with financial aid is that approximately 57 percent of students receiving a bachelor's degree from the CSU graduate without any education loan debt.

***Question 12: Affordability is affected by how much it costs CSU to provide educational services. What steps has and should CSU take to hold down these costs?***

In addition to the items discussed in my Question 11 reply, steps that the CSU must continue to work on to hold down educational services include (1) ongoing work to develop instructional strategies, including use of technology, for "bottleneck" courses that have relatively low student success rates (i.e., that many students fail and/or drop, and thus need to repeat); (2) developing more online courses which also requires working with the faculty union to make these available to more students; (3) development of regionally-based, multi-campus academic programs where it is cost-effective to do so.

***Question 13: The fall 2009 freshman admissions cycle took place in a challenging context, which included budgetary constraints and unfunded over-enrollments on most campuses. Potentially, CSU may curtail enrollment by up to 10,000 students throughout the system. Are the trustees informed of any trends that can be detected from the preliminary admissions data as to the effect the system-wide impaction has had on applicants and their preferred campus of choice, in addition to whether certain parts of the state were more adversely affected than others as a result of the impaction?***

The CSU *attempted* to curtail enrollment by up to 10,000 students for the 2009-10 year given the lack of funding for these students, and in turn concerns about access to courses, programs and services for these students to succeed in a timely manner. We were not successful given the increasing demand for college in this tough economy, thus we understand we will likely serve 7,000 more students throughout the system without state funding even with campus efforts. This will continue to be an issue that all of us cannot ignore; there is only so long we can maintain this level of access without funding for the faculty and staff to serve these students.

***Question 14: For the last several years, CSU has been engaged in efforts to reach out to students who have historically not been part of higher education in California. What impact will the system-wide impaction have on these students? What steps is CSU taking to inform underserved communities and the high schools serving these students of the changes in application deadlines along with the potential for differing admissions criteria among the CSU campuses?***

Underserved communities are being informed through their schools and community colleges. As stated above there has been outreach through the churches and other programs as well as distributing an informational poster in various languages. Please see response to Question 2.

Applications to CSU from historically under-represented populations, e.g. African-Americans and Latino/a high school seniors have actually increased. Earlier closings of application cycles have not been accompanied by any decrease in the diversity of the CSU applicant pool according to data shared with the Board earlier this spring.

***Question 15: CSU's latest Compact Performance Measures report shows that almost 3,400 full-time equivalent students (FTES) were used up last year in the form of "excess course units" – that is, students taking courses beyond 120 percent of the minimum number required for graduation. As another example, more than one-third of regularly admitted freshmen never graduate from CSU. What steps should CSU take to make more efficient use of its enrollment funding?***

The Board and Chancellor Reed are convinced that we can do more to improve student efficiency and degree completion. We still have work to do to ensure that community college transfer students come to our campuses with the 60 units they need rather than "excess units" that they do not need to complete a degree. We also need to do a better job in tracking and advising students so that they in fact stay the course. We have also recently urged campuses to examine the status of what we call "super seniors" - seniors that are within reach of degree completion and steer them in that direction. The challenge of course is getting such students to leave as they face this terrible economy and job market.

The CSU is closely monitoring the issue of excess course units. Additionally, the CSU is addressing the issue of student dropouts through the outreach programs we have mentioned in previous questions as well as limiting academic programs that require more than 120 units. The number of degree programs requiring 120 semester units is 77%.

We now require annual reporting to the Board on the number of bachelor's programs that exceed 120 required units and justification and review of any proposed bachelor's degree program proposal that exceeds 120 required units. And starting in fall 2009, a new Executive Order will require students to use course repeats and course withdrawals very sparingly.

All of these and others are part of our overall effort to improve graduation rates, reduce unnecessary time and costs to students and the state, and to ensure the quality of our programs and services. It is an art and a science that I am confident that our system leaders and academic professionals are working diligently to achieve the results we all want for CSU.

***Question 16: How does the board monitor the effectiveness of the early assessment program and whether it has helped increase the graduation rates of CSU students needing remediation in basic skills? Do you have empirical data? Are you satisfied with how the policy is being implemented?***



The board monitors the effectiveness of the early assessment program (EAP) by receiving reports on the outcomes of remediation each year. The CSU does not have any data yet on whether it affects graduation rates; however I have been informed that empirical data indicates that remedial students that attain proficiency during their first year exhibit graduation rates that are on par with the graduation rates for students that are Math/English proficient at entry.

***Question 17: How does the board evaluate which types of outreach programs are most effective in helping disadvantaged students enroll in college? Is the board kept informed of students' remediation needs once enrolled at CSU and whether they are being met appropriately?***

The annual outreach report is provided to the Board and the legislature and includes funding for the EAP, our How to Go to College posters, and our partnerships with churches and other community based groups. Ironically this report was recently used to propose cutting all state funding for our academic preparation and outreach programs in the 2009-10 as part of the budget solution. We have already begun urging the Administration and legislative representatives that these programs are critical for the CSU and the students it serves today and in the future. Our hope is that if such cuts are necessary that they be made unallocated so that we can protect as many of these programs as possible going forward.

***Question 18: How do you evaluate the quality of coordination between CSU outreach programs and K-12 schools to determine if it provides the best mix of outreach interventions? Is this an appropriate area for the board to weigh in?***

As noted in the answer to Question 17, the annual outreach report that is provided each year to the Board of Trustees and legislature summarizes the mix of outreach programs provided to K-12 schools and students.

I believe that this is an area the board can weigh in on a system wide basis. Board members have diverse backgrounds and experiences and are able to add their suggestions and even get involved. Individual campuses have developed their own specific outreach programs with K-12 schools tailored to meet specific regional needs.

***Question 19: High school students who want to pursue a college pre curriculum in California must devote nearly their entire schedule to completing A-G coursework, leaving little room for career tech or other electives. How does the board monitor this issue and weigh in? Do you believe the current requirements are the best ones, or have you considered easing them even slightly as some have suggested by requiring A-F?***

College and career preparatory education are often perceived as competing agendas but at the CSU we consider them one and the same. Many students, parents, and school counselors imagine that students must choose between preparing for college or careers. As an analysis of high school graduation requirements, recommended career technical education and A-G requirements demonstrates, students are able to take 4.5 elective courses. We have also worked with UC to get over 7,000 CTE courses approved as A-G courses – this is up from 500 just a few years ago. CSU advocates for both in their counselor conferences. We do not believe it is an either/or as suggested by some advocates. Given the information I have reviewed, I do not believe that the current requirements need to be eased; but we do need to continue efforts to make sure high school counselors, parents and students know that they can succeed with CTE as part of their curriculum in preparing for college or work.



***Question 20: Secondary school programs such as Career Partnership Academies and small career-themed high schools have shown success in engaging at-risk students with “contextualized” or applied learning strategies that draw a clear line from what they are gaining in high school to what they will need to succeed in the adult world of work. What role, if any, should CSU play in preparing or providing professional development to aspiring and current secondary school teachers so that they are equipped to develop and lead such programs?***

I believe that the CSU should play a role in preparing practicing and prospective secondary teachers to teach in and provide leadership to career partnership academies and career-themed high schools.

I understand that four CSU campuses have augmented their approved secondary credential programs to support candidates' field placement in career-themed settings and to provide them with the opportunity to practice problem based learning and other effective strategies for enhancing applied learning and application of academic content skills to the world of work.

***Question 21: Title IX violations at Fresno State have resulted in very costly settlements. How is your board monitoring this situation to assure compliance with the law? Are you satisfied that the problems at Fresno State have been addressed? How do you monitor Title IX activities at the other campuses?***

The Board of Trustees monitors this situation through an annual report on the compliance with the law and efforts by the campus to meet equal opportunity in athletics for women. Additionally, a council of campus presidents monitor campuses compliance with Title IX and athletic equity status at all campuses and reports them to the Chancellor and Board. In cases where campuses are unable to demonstrate compliance they are required to offer a remedial plan.

Based on the actions taken by the CSU and the Board I believe that the problem at Fresno State has been addressed.

***Question 22: What is the board doing to analyze the state's long-term workforce needs and determine the system's capacity to respond to educating students to enter high-growth fields?***

The CSU is very active in analyzing the state's long term workforce needs to determine the systems capacity to respond to educating students to enter high-growth fields. Prior to the development of new degree program proposals, extensive workforce demand research is undertaken to determine both the current market need and growth potential of a degree program.

CSU campuses have professional advisory boards for various schools, colleges, departments, and programs. With membership including faculty and professionals in the field, these groups contribute to the campus' understanding of employment needs. The Chancellor's Office investigates all new program requests and all claims of employment needs that are brought forward by professional organizations, accreditors, students, faculty and campuses. Finally proposed degree programs must provide evidence of sufficient student demand and state, regional or local workforce need.

***Question 23: What is the appropriate role for the board in terms of helping campuses strengthen their capacity to respond more quickly to the demand for programs that train students to enter high-growth fields? Conversely, should the board respond to declines in enrollment in programs that are no longer in demand because of changing workforce needs?***

The Board reviews degree programs for approval that are responsive to workforce demands, and provides the same service when programs are slated for discontinuation because demands have fallen off.

As described above in response to Question 22, the CSU is very responsive in analyzing the states long-term workforce needs and helping campuses strengthen their capacity to respond more quickly to the demand for programs that train students to enter high-growth fields.

***Question 24: How does the CSU propose to align the opportunities of California's green economy with educational and career development programs at its campuses? Is this an issue area on which your board provides guidance? If so, how?***

The Board considers and approves campus proposals to implement new degree programs.

The CSU offers over 50 degrees in programs, in which students may learn content applicable to careers in occupations related to the environment. Some of these degrees include Ecological Economics, Environmental Policy and Natural Resources Planning and Interpretation. As stated in the answers to the questions above the CSU is always working to keep up with the demands of the workforce to provide programs and training for future careers which include the green economy.

***Question 25: How does the CSU propose to align the opportunities of California's green economy with educational and career development programs at its campuses? Is this an issue area on which your board provides guidance? If so, how?***

The CSU proposes to align the opportunities of California's green economy through the Board approved strategic plan, "Access to Excellence." Based on this research and planning work we have identified sustainability issues, including the design and implementation of new degree programs, is a priority for the system.

Thank you again for the chance to share some of my views and experience thus far as a member of the Board of Trustees. I look forward to working with you in the months and years ahead for all students and our state.

Sincerely,



Henry Mendoza  
Trustee

cc: Members of the Senate Rules Committee  
Jeffrey L. Bleich, Chair, CSU Board of Trustees  
Chancellor Charles B. Reed  
Nettie Sabelhaus, Consultant, Senate Rules Committee

1. The first part of the document discusses the importance of maintaining accurate records of all transactions and the role of the accounting department in ensuring the integrity of the financial statements.

2. It also highlights the need for regular audits and the importance of having a strong internal control system in place to prevent fraud and errors.

3. The second part of the document provides a detailed overview of the company's financial performance over the past year, including a breakdown of revenue, expenses, and profit.

4. It also includes a comparison of the company's performance to industry benchmarks and a discussion of the factors that have contributed to its success or challenges.

5. The third part of the document outlines the company's financial goals for the upcoming year and the strategies that will be implemented to achieve them.

6. It also includes a discussion of the risks associated with these goals and the measures that will be taken to mitigate them.

7. The fourth part of the document provides a summary of the key findings of the audit and the recommendations for improvement.

8. It also includes a discussion of the steps that will be taken to implement these recommendations and the timeline for completion.

9. The fifth part of the document provides a final summary of the document and a conclusion.

10. It also includes a list of the key points discussed in the document and a list of the people who were involved in its preparation.





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APPEARANCES

MEMBERS PRESENT

SENATOR DARRELL STEINBERG, Chair

SENATOR GIL CEDILLO

SENATOR SAMUEL AANESTAD

SENATOR ROBERT DUTTON

SENATOR JENNY OROPEZA

STAFF PRESENT

GREG SCHMIDT, Executive Officer

JANE LEONARD BROWN, Committee Assistant

NETTIE SABELHAUS, Appointments Consultant

DAN SAVAGE, Assistant to SENATOR CEDILLO

BILL BAILEY, Assistant to SENATOR AANESTAD

CHRIS BURNS, Assistant to SENATOR DUTTON

BRENDAN HUGHES, Assistant to SENATOR OROPEZA

# THEORY OF THE EARTH

BY J. H. VAN DIJK

AMSTERDAM

1910

1911

1912

## CONTENTS

1. THE EARTH AND ITS HISTORY	1
2. THE EARTH'S CRUST	10
3. THE EARTH'S MANTLE	20
4. THE EARTH'S CORE	30
5. THE EARTH'S SURFACE	40
6. THE EARTH'S ATMOSPHERE	50
7. THE EARTH'S HYDROSPHERE	60
8. THE EARTH'S BIOSPHERE	70
9. THE EARTH'S GEOSPHERE	80
10. THE EARTH'S COSMOSPHERE	90

INDEX

Page

Proceedings .....	4
Vote-Only Item re Confirmation of:	
LEA A. CHRONES, Member, Board of Parole Hearings .....	5
JACK E. GARNER, Member, Board of Parole Hearings .....	5
HOLLIS H. GILLINGHAM, Member, Board of Parole Hearings .....	5
ANTHONY P. KANE, Member, Board of Parole Hearings .....	5
MICHAEL F. PRIZMICH, Member, Board of Parole Hearings .....	5
STATEMENT BY CHAIRMAN STEINBERG .....	5
STATEMENT BY SENATOR OROPEZA .....	9
STATEMENT BY SENATOR CEDILLO .....	11
--o0o--	
Proceedings Adjourned .....	13
Certificate of Reporter .....	14

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1 PROCEEDINGS

2 CHAIRMAN STEINBERG: Good afternoon. The  
3 Senate Rules Committee will come to order.

4 Please call the roll.

5 MS. BROWN: Senator Cedillo.  
6 Dutton.

7 Oropeza.

8 SENATOR OROPEZA: Here.

9 MS. BROWN: Oropeza here.  
10 Aanestad.

11 SENATOR AANESTAD: Here.

12 MS. BROWN: Aanestad here.  
13 Steinberg.

14 CHAIRMAN STEINBERG: Here.

15 MS. BROWN: Steinberg here.

16 CHAIRMAN STEINBERG: Senator Cedillo is here as  
17 well.

18 SENATOR OROPEZA: I heard him bellow.

19 CHAIRMAN STEINBERG: Very good. We have four  
20 of the five members. We'll await Senator Dutton and of  
21 course leave the roll open for him as we take up various  
22 measures.

23 All right. Let's begin with file item one,  
24 reference of bills.

25 (Discussion off the record.)





1           CHAIRMAN STEINBERG: We'll leave the roll open  
2 for Senator Dutton. Thank you.

3           All right. File item two are governor's  
4 appointees. These are for vote only, as we did hear the  
5 following members several weeks ago: Lea A. Chrones as  
6 a member of the Board of Parole Hearings; Jack E. Garner  
7 as a member of the Board of Parole Hearings; Hollis H.  
8 Gillingham as a member of the Board of Parole Hearings;  
9 Anthony P. Kane as a member of the Board of Parole  
10 Hearings; and Michael F. Prizmich as a member of the  
11 Board of Parole Hearings.

12           I'd like to make a brief statement, if I might,  
13 about at least my recommendation as the chair of the  
14 Committee as to where we ought to go on these  
15 nominations.

16           Members, we've heard eight members of the Board  
17 of Parole Hearings this year alone. We've spent many  
18 hours in these confirmation hearings, and we have  
19 reviewed transcripts. And, of course, the staff has  
20 attended numerous so-called lifer hearings.

21           One of the reasons why we provide so much  
22 scrutiny is that the Board of Parole does much of its  
23 work out of the public view, inside the prisons, outside  
24 the view of the press. We need people who are fair,  
25 trustworthy, and well-prepared, because we are trusting

# ORIGINAL ARTICLES

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1   them with our public safety. And these are very hard  
2   jobs.

3           And, again, it's our job here -- We had this  
4   discussion with regard to another nominee. It's not our  
5   job to judge the character of people. It is our job,  
6   essentially, to conduct a public job interview, and if  
7   we decide in our best and fair judgment that somebody  
8   should just plain not get the job -- they may otherwise  
9   be a fine, outstanding human being -- it is our  
10   discretion and our duty to make a decision accordingly.

11           We talked about, with regard to all of the  
12   members, serious concerns with the full board about how  
13   the board is interpreting Title 15 and recent court  
14   decisions about what the standard for review ought to be  
15   in determining whether a lifer is eligible for parole.  
16   We're still discussing the matter with the board and its  
17   staff, and we're also bringing other issues to its  
18   attention.

19           Meanwhile, we have to decide how to proceed on  
20   the five members who are before us. And I want to  
21   essentially say that I'm going to recommend that we  
22   approve Ms. Chrones, Mr. Garner, Ms. Gillingham, and  
23   Mr. Prizmich, and that we do not confirm Anthony Kane.  
24   And I want to explain why.

25           The Senate confirmed Mr. Kane in July 2007 as





1 an associate superintendent within the Department of  
2 Corrections. He was the person in charge of all level-  
3 two and -three prisons. Yet he chose to retire just  
4 three months after confirmation. He told us that he  
5 attended a CalPERS workshop on October 10th where he  
6 discovered his best retirement date was October the  
7 18th.

8           It simply doesn't feel right. In 2007 when  
9 Mr. Kane was up for confirmation for his previous job,  
10 he told the Rules Committee under Senator Perata's  
11 leadership, quote, "Why do I want this job? My answer  
12 to the question is that I would like to be part -- to  
13 take part in making positive changes to this department  
14 and give back to CDCR what has been afforded to me. I  
15 feel I have the energy, passion, and desire to assist in  
16 making this change. My desire is to be a change agent  
17 and a leader that will assist in steering the department  
18 in a positive direction." And yet three months later,  
19 he chose to retire, which is his right, but three months  
20 after that confirmation hearing.

21           So here is the question before us: Should we  
22 reward this nominee with \$111,800 a year salary for this  
23 job after leaving his previous job in just 15 months  
24 with full safety retirement? I think the answer is no.  
25 We are sending a message that we expect our

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CONTENTS

ORIGINAL ARTICLES

THE EFFECT OF VITAMIN C ON THE  
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1 highest-ranking appointees to provide leadership and a  
2 sense of responsibility for the positions to which  
3 they're appointed. And people have complete freedom of  
4 choice to do whatever they want with their lives, but  
5 then to come back and get a full safety pension and this  
6 position does not feel right.

7           There's two other issues that troubled me as  
8 chair of the Committee. I asked Mr. Kane about one of  
9 his cases, and an attorney came to our witness table to  
10 discuss it, and he was adamant that the attorney seated  
11 next to him referred to the wrong case. He said, and  
12 this is a quote, "That wasn't your case. I remember  
13 exactly the case that it was." But it was he who had  
14 the facts wrong, as it turns out, as we went and  
15 researched it. His certainty, despite the fact that he  
16 was wrong, again gives me some serious reservations  
17 about how he would handle matters outside of his view.

18           He also, you know, stated that in 2007, that he  
19 wanted to be a change agent. And, true, that was a  
20 different job; but in this job where most, if not all,  
21 of the other nominees said that as part of their job as  
22 arbiter and judge, they also deem themselves to have a  
23 responsibility to be advocates for a better system,  
24 Mr. Kane said that he didn't view that as part of his  
25 role.



1           With regard to the pension issue, again, I just  
2 want to say to my colleagues and to the public that I  
3 want to announce that I will be seeking a change in the  
4 statute so that appointees to state boards and  
5 commissions will no longer be able to receive both a  
6 state pension as a retiree and a full salary as a member  
7 of the board. I hope the Rules Committee, my  
8 colleagues, and my colleagues throughout the legislature  
9 will join me in this important effort. I think it's an  
10 important signal to the public, and we'll bring that  
11 forward forthwith

12           So, again, the recommendation is to, in fact,  
13 approve Lea A. Chrones, Jack E. Garner,  
14 Hollis H. Gillingham, and Michael Prizmich, and I'll  
15 take a motion to that effect.

16           SENATOR OROPEZA: I so move.

17           CHAIRMAN STEINBERG: Moved by Senator Oropeza.  
18 Other comments from Members?

19           Yes, Senator Oropeza.

20           SENATOR OROPEZA: Go ahead. Go ahead.

21           SENATOR CEDILLO: No. Please.

22           SENATOR OROPEZA: I would just like to say that  
23 I concur with the chair, particularly --

24           Well, I'd like to highlight the last item that  
25 you talked about in terms of bringing legislation that





1 will make it impossible to, in essence, double-dip in  
2 our state system and have a full state pension and then  
3 come back for, you know, another job, another bite at  
4 the apple. I think that's been a manipulation of the  
5 system and one that is -- I don't think shows good  
6 faith.

7           So I'm very pleased, Mr. Chair, that you are  
8 proposing this action and will be happy to be supportive  
9 when it comes forward and do whatever I can to be  
10 helpful in making sure that it is adopted.

11           In terms of these other nominees, the ongoing  
12 issue that we had -- We had lengthy discussions with  
13 these individuals, and I think that they were very  
14 enlightening and important to our knowledge curve, or at  
15 least my knowledge curve, in terms of understanding how  
16 the Department of Corrections works, how the -- how  
17 Parole works, and I think I have come to learn that I  
18 feel that there needs to be reform. And I'm -- I don't  
19 hold that as a reason to withhold support for these  
20 nominees, for these other four nominees, but do want to  
21 point out for the record that I think there's some real  
22 things that were highlighted in those discussions that  
23 need to be addressed, either legislatively,  
24 administratively, or somehow.

25           CHAIRMAN STEINBERG: Great. Thank you.

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1           Senator Cedillo.

2           SENATOR CEDILLO: Well, only to restate again  
3 our concern, or at least my concern, that we don't have  
4 the type of diversity that I believe is mandated by the  
5 Code --

6           CHAIRMAN STEINBERG: Good point.

7           SENATOR CEDILLO: -- that we should, and that  
8 the problem exists that we believe and I believe that  
9 there are too many people who are eligible and notorious  
10 for parole and they're not being paroled. So that's a  
11 fundamental failure of the system. I believe it's  
12 partly tied to the appointees. Part of it -- I don't  
13 think it's the architecture of the parole board. I  
14 think it's probably the failure of placing the right  
15 appointees in those positions as they become available.  
16 So I will continue, as I have in the prior, to not take  
17 a position in support.

18           You know, I think we have to think about the  
19 second point when people are in compliance -- It appears  
20 that Mr. Kane is in compliance with the spirit and  
21 letter of the law, and I think it's appropriate to  
22 reevaluate whether or not that's a circumstance that we  
23 want to continue to permit.

24           CHAIRMAN STEINBERG: Thank you, Senator.

25           Anybody else?

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1           Okay. We have a motion on the floor to  
2 approve, again, under your agenda 2A, B, C, and E.

3           Please call the roll.

4           MS. BROWN: Senator Cedillo.

5           Dutton.

6           SENATOR DUTTON: Aye.

7           MS. BROWN: Dutton aye.

8           Oropeza.

9           SENATOR OROPEZA: Aye.

10          MS. BROWN: Oropeza aye.

11          Aanestad.

12          SENATOR AANESTAD: Aye.

13          MS. BROWN: Aanestad aye.

14          Steinberg.

15          CHAIRMAN STEINBERG: Aye.

16          MS. BROWN: Steinberg aye.

17          CHAIRMAN STEINBERG: Okay. Four nothing.

18 Those pass.

19                 Now on -- Let's lift the call on file item one  
20 for Senator Dutton, the reference bills.

21          MS. BROWN: Senator Dutton.

22          SENATOR DUTTON: Aye.

23          MS. BROWN: Senator Dutton aye.

24          CHAIRMAN STEINBERG: All right. That's out.

25          2D, Anthony P. Kane, take a motion. Need a



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1 formal motion by Senator Oropeza, don't I?

2 MR. SCHMIDT: Just let it sit.

3 CHAIRMAN STEINBERG: Okay.

4 SENATOR AANESTAD: What's his date?

5 MS. SABELHAUS: 28th of July.

6 CHAIRMAN STEINBERG: Okay. Never mind. Let's  
7 move on. Thank you.

8 (Thereupon, the Senate Rules Committee hearing  
9 adjourned at 1:49 p.m.)

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# THE HISTORY OF THE UNITED STATES

OF THE UNITED STATES OF AMERICA

BY HENRY REEVE

IN TWO VOLUMES

VOLUME THE FIRST

NEW YORK: PUBLISHED BY G. & C. VAN NESTES, 1847.

1847.

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I, INA C. LeBLANC, a Certified Shorthand Reporter of the State of California, do hereby certify that I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, INA C. LeBLANC, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand  
this 26<sup>th</sup> day of June, 2009.

INA C. LeBLANC  
CSR No. 6713

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SENATE RULES COMMITTEE

STATE OF CALIFORNIA

--oOo--

HEARING

STATE CAPITOL

ROOM 113

SACRAMENTO, CALIFORNIA

--oOo--

WEDNESDAY, JULY 8, 2009

1:49 P.M.

--oOo--

Reported By: INA C. LeBLANC  
Certified Shorthand Reporter  
CSR No. 6713



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APPEARANCES

MEMBERS PRESENT

SENATOR DARRELL STEINBERG, Chair

SENATOR GIL CEDILLO

SENATOR SAMUEL AANESTAD

SENATOR ROBERT DUTTON

STAFF PRESENT

GREG SCHMIDT, Executive Officer

JANE LEONARD BROWN, Committee Assistant

NETTIE SABELHAUS, Appointments Consultant

DAN SAVAGE, Assistant to SENATOR CEDILLO

BILL BAILEY, Assistant to SENATOR AANESTAD

CHRIS BURNS, Assistant to SENATOR DUTTON

ALSO PRESENT

MARY S. FERNANDEZ, Undersecretary, Department of  
Corrections and Rehabilitation

STEPHEN L. EDINGER, Member, Oil Spill Response  
Administrator

TAM M. DODUC, Member, State Water Resources Control  
Board

FRANCES S. WEBER, Member, State Water Resources Control  
Board

INDEX

Page

3	Proceedings .....	1
4	Governor's Appointees:	
5	MARY S. FERNANDEZ, Undersecretary, Department of Corrections and Rehabilitation .....	2
6	Questions by CHAIRMAN STEINBERG re:	
7		
8	Approaching challenges in the difficult budget environment .....	4
9	Timeline on strategic plan becoming public .....	6
10	Implementation of strategic plan ..	6
11	What needs to be fixed in CDCR ...	7
12	Completion of automation of inmate files .....	14
13		
14	Question by SENATOR AANESTAD re:	
15		
16	Overtime .....	9
17	STATEMENT BY SENATOR DUTTON .....	13
18		
19	<u>Witnesses in Support of MARY S. FERNANDEZ:</u>	
20	RUSSELL W. SNYDER, California Asphalt Pavement Association .....	15
21	SAM HASSOUN, Association of California Contractors .....	16
22		
23	TED TOPPIN, Professional Engineers in California Government and California Association of Professional Scientists .....	18
24		
25	RICHARD WOONACOTT, Friend .....	18

iii

1	<u>Witness in Opposition to MARY S. FERNANDEZ:</u>	
2	DAVID WARREN, Taxpayers for Improving Public Safety .....	19
3		
4	--oOo--	
5	STEPHEN L. EDINGER, Member, Oil Spill Response Administrator .....	22
6	Questions by CHAIRMAN STEINBERG re:	
7		
8	Differences in OSPR since Cosco Busan incident .....	25
9	Consolidating authority for pipeline regulation .....	27
10		
11	Confidence in OSPR having improved response time .....	28
12		
13	<u>Witnesses in Support of STEPHEN L. EDINGER:</u>	
14	TED TOPPIN, California Association of Professional Scientists .....	29
15		
16	JERRY KARNOW, JR., California Fish and Game Wardens' Association .....	29
17	GEORGE OSBORN, Advanced Cleanup Technologies, Inc. ....	30
18		
19	BRIAN ARNOLD, California Fish and Game Wardens, Supervisors and Managers Association .....	31
20		
21	--oOo--	
22		
23	TAM M. DUDOC, Member, State Water Resources Control Board .....	33
24	FRANCES S. WEBER, Member, State Water Resources Control Board .....	33
25		

iv



1	Questions by CHAIRMAN STEINBERG re:	
2	Reorganization/consolidation .....	37
3	TMDL development .....	39
4	STATEMENT BY SENATOR AANESTAD .....	42
5	<u>Witnesses in Support of FRANCES S. WEBER and</u>	
	<u>TAM M. DUDOC:</u>	
6	CELESTE CANTU, Santa Ana Watershed Project	
7	Authority .....	46
8	RICHARD HARRIS, Water Reuse Association .....	46
9	JACK HAWKS, California Water Association ....	48
10	MIKE DILLON, California Association of	
	Sanitation Agencies .....	49
11	BARBARA BYRNE, Planning and Conservation	
12	League .....	50
13	<u>Witness in Support of FRANCES S. WEBER:</u>	
14	PHILLIP UNG, The Nature Conservancy .....	50
15		
16	--oOo--	
17	Vote-Only Item re Confirmation of:	
18	MONICA S. HUNTER, Ph.D., Member, Water Quality	
	Control Board, Central Coast Region .....	52
19	RUSSELL M. JEFFRIES, Member, Water Quality	
20	Control Board, Central Coast Region .....	52
21	KATHERINE J. HART, Member, Water Quality	
	Control Board, Central Coast Region .....	52
22	THOMAS J. DAVIS, Member, Water Quality	
23	Control Board, Colorado River Basin Region ...	52
24	JEFFREY A. HAYS, Member, Water Quality	
25	Control Board, Colorado River Basin Region ...	52

v

1	ELLEN M. WAY, Member, Water Quality	
	Control Board, Colorado River Basin Region ...	52
2	R. KEITH DYAS, Member, Water Quality	
3	Control Board, Lahontan Region .....	52
4	HEIDI J. CARPENTER-HARRIS, Member, Water	
	Quality Control Board, North Coastal Region ..	52
5	JOHN M. DUNKER, Member, Water Quality Control	
6	Board, North Coastal Region .....	52
7	GEOFFREY M. HALES, Member, Water Quality	
	Control Board, North Coastal Region .....	52
8	JOHN H. MULLER, Member, Water Quality Control	
9	Board, San Francisco Bay Region .....	52
10	RAMESHWAR SINGH, Ph.D., Member, Water Quality	
	Control Board, San Francisco Bay Region .....	52
11	RICHARD FRESCHI, Member, Water Quality	
12	Control Board, Santa Ana Region .....	52
13	BETTY H. OLSON, Ph.D., Member, Western States	
	Water Council .....	52
14		
15		
16	--oOo--	
17	Proceedings Adjourned .....	53
18	Certificate of Reporter .....	54
19	APPENDIX (Written Responses of Appointees) ..	55
20		
21		
22		
23		
24		
25		

vi

**PROCEEDINGS**

CHAIRMAN STEINBERG: Good afternoon, everyone.

The Senate Rules Committee will come to order.

I apologize for being late. I have a few other pressing matters going on here in the Legislature.

We do have enough members for a quorum, so, Jane, if you could please call the roll.

MS. BROWN: Senator Cedillo.

SENATOR CEDILLO: Here.

MS. BROWN: Cedillo here.

Dutton.

Oropeza.

Aanestad.

SENATOR AANESTAD: Here.

MS. BROWN: Aanestad here.

Steinberg.

CHAIRMAN STEINBERG: Here.

MS. BROWN: Steinberg here.

CHAIRMAN STEINBERG: A quorum has been established. Let me begin the meeting, though, by congratulating the two gentlemen sitting to my left, Greg Schmidt, Secretary of our Senate, and Senator Sam Aanestad, new grandfathers.

(Applause.)

SENATOR AANESTAD: We're discussing dowries.

1

CHAIRMAN STEINBERG: Hope everybody, mothers and children, are all doing well, and they're healthy.

That's great.

Okay. Now to the business at hand. We do have four gubernatorial appointees appearing today, and why don't we begin with Mary S. Fernandez as undersecretary of the Department of Corrections and Rehabilitation.

Welcome.

MS. FERNANDEZ: Thank you.

CHAIRMAN STEINBERG: It's the tradition here of the Committee to allow the nominee to introduce his or her family member -- family members, close personal friends. Please.

MS. FERNANDEZ: I have my three children that I would like to introduce. I have Christopher, Rachelle, and Steven.

CHAIRMAN STEINBERG: Welcome. Welcome to all of you. Hope this isn't too boring. I'm sure it won't be.

Welcome to you, Ms. Fernandez. Would you like to make a brief opening statement about how you see this role that you are undertaking.

MS. FERNANDEZ: I have a brief statement I would like to read.

CHAIRMAN STEINBERG: Please.

2

1 MS. FERNANDEZ: I would like to thank the  
2 Senate Rules Committee for giving me the opportunity to  
3 address my work experience and how I am leveraging that  
4 experience in my role as undersecretary of  
5 administration for CDCR.

6 I am a career civil servant and have over  
7 30 years' experience in administrative functions,  
8 14 years at the executive level. I am currently working  
9 to improve the department's accountability so that  
0 taxpayer dollars are spent effectively.

1 I am sponsoring several system control projects  
2 as part of Secretary Cate's cost control measures to  
3 reduce expenditures. These projects have already  
4 yielded some significant savings. For example, earlier  
5 this year, we performed a state vehicle audit to  
6 inventory and assess the use of our state vehicles. The  
7 audit is nearly complete, and we are currently  
8 implementing policies to tighten up our vehicle usage.

9 In addition, we are auditing our positions,  
0 working to reconcile the hundreds of positions that are  
1 not properly aligned with their budget authority. We  
2 also completed a review of the 4300 headquarter  
3 positions and eliminated over 430. We have inventoried  
4 hand-held devices, BlackBerries and cell phones, and cut  
5 expenses by more than half a million dollars.

3

1 In response to the criticism of our lease  
2 management, I recently chartered a strike team to  
3 review, consolidate, and monitor our leases. That was  
4 just last month. We have already canceled \$400,000 in  
5 leases.

6 I am guiding several important initiatives in  
7 the area of human resources, including succession  
8 planning and leadership training; and in the area of  
9 information technology, the implementation of a tool to  
0 automate our admin processes and systems, and another IT  
1 system to streamline and automate our inmate case  
2 records.

3 During my career, I have always enjoyed making  
4 a difference, and I am very challenged by the issues  
5 facing CDCR. I believe that by working with the  
6 talented and passionate employees of the department, we  
7 will improve our admin functions. I will continue my  
8 efforts to move towards effectiveness, transparency, and  
9 accountability at CDCR, and I look forward to working  
0 with you to achieve that vision.

1 Thank you for considering me for this very  
2 important role.

3 CHAIRMAN STEINBERG: Thank you. I'll begin, if  
4 I may.

5 You are taking this position on during the most

4

1 difficult of financial and budget times, and as I look  
2 at all of the things that you are responsible for as the  
3 assistant secretary, automating inmate records and  
4 files, the physical state of many of our facilities -- I  
5 know that Mr. Bailey and Mr. Gladstone visited Pleasant  
6 Valley Prison this past winter and saw a gym where water  
7 was literally pouring through the roof onto an inmate's  
8 bed. Mr. Bailey can correct me if I'm misstating  
9 anything. The issue of overtime, especially in remote  
10 prisons, the issue we spoke about with Matt Cate at  
11 great length, about attracting and retraining top  
12 managers here so that there isn't so much turnover, and  
13 a training and management plan to do that.

14 How do you approach these various challenges in  
15 the midst of this difficult budget environment that we  
16 find ourselves in?

17 MS. FERNANDEZ: Well, number one, as I have  
18 found low-hanging fruit, as what I just mentioned in my  
19 opening statement, I have gone after that, those issues,  
20 and put together teams to start working on it. And the  
21 way I approach it is by using a project-management  
22 approach so things don't fall by the wayside. I make  
23 sure that every project has a charter, has an action  
24 plan, has due dates. We meet regularly, sometimes  
25 weekly, sometimes monthly, to make sure that people are

5

1 moving forward on the issues, and monitor it as we're  
2 going along.

3 In addition, I feel very strongly that in order  
4 to get after some long-term, big changes, we need to  
5 develop a good solid strategic plan, and that will  
6 incorporate many of the things that you talked about.  
7 So we are working towards our strategic plan. It's  
8 going to be very much an actionable strategic plan. It  
9 will not be a sit-on-the-shelf.

10 In previous departments that I've worked at, I  
11 have implemented strategic plans, both at DPA, back in  
12 the '90s, and at State Personnel Board, and both of  
13 those strategic plans moved the organization to change.

14 CHAIRMAN STEINBERG: When can we expect the  
15 strategic plan to be public?

16 MS. FERNANDEZ: We are working through it right  
17 now. I would expect late summer, early fall, you know,  
18 given all of the challenges with the budget right now.  
19 We are....

20 CHAIRMAN STEINBERG: And how long will the  
21 strategic plan take to implement once it's --

22 MS. FERNANDEZ: I expect implementation to  
23 begin immediately. There will be action plans with due  
24 dates, and you'll start seeing results.

25 CHAIRMAN STEINBERG: When will it be completed?

6



1 MS. FERNANDEZ: I believe we're going after a  
2 three-year plan. Three to five. I don't know that  
3 we've settled on that yet.  
4 CHAIRMAN STEINBERG: Let me ask it maybe a  
5 different way. From your work record and references and  
6 what everyone says, that you are -- you know, you are  
7 suited to take on this challenge. But you're one  
8 person. And I sort of want to get your sense as sort of  
9 the chief administrator, if you will, what the state of  
10 Corrections is right now. I mean, what --  
11 People are out there smiling.  
12 You know, what do you see as broken that needs  
13 to be fixed?  
14 MS. FERNANDEZ: Well, first of all I would like  
15 to say that one of the reasons that I decided to go to  
16 Corrections was after I met Matt Cate and Brett Morgan.  
17 They definitely have a vision for where they want  
18 Corrections to go, and they understood the strategic  
19 plan. So that was one reason that I went to the  
20 department.  
21 There's also -- All of my managers are  
22 extremely talented. There's a crisis every day that  
23 everyone -- Right now we're dealing with the H1N1. I  
24 mean, it's in the paper every day. Every hour, there's  
25 another crisis. We need a good strategic plan to help

7

1 focus people, to get those talented people moving  
2 forward to change the department.  
3 CHAIRMAN STEINBERG: I'd like a little more  
4 specificity, please. I want to have an honest dialogue  
5 here about what's -- We all know that --  
6 MS. FERNANDEZ: Specifics about what's broken?  
7 CHAIRMAN STEINBERG: -- Corrections --  
8 I think the world of Matt Cate. I think he's  
9 the right leader. No issue there. But Corrections is a  
10 mess. And how do you see it from where you sit and  
11 stand, and what is the most important thing you want to  
12 accomplish over the next, you know, 18 months to begin  
13 turning around the common perception that Corrections is  
14 a mess.  
15 MS. FERNANDEZ: I work on that every day.  
16 There are many positive areas in the department,  
17 particularly IT. I did have a lot of interaction with  
18 the department back in the '90s, and IT was pretty much  
19 a joke. There was really no automation. There was  
20 nothing happening. Now we have the BIS project and the  
21 SOMS project that are going to take us into the 21st  
22 century. I'm very proud of that, and I like to get our  
23 folks out talking about it, spreading the word that  
24 Corrections is doing a good job in that area.  
25 The other area that we're working on that you

8

1 spoke with Secretary Cate about is the succession  
2 planning area, and we have a succession plan now. We've  
3 done a gap analysis. We've rolled out to 12  
4 institutions, and we are beginning to develop plans so  
5 that our feeder classes can move into some of the  
6 leadership roles out in the institutions.  
7 CHAIRMAN STEINBERG: What is gap analysis?  
8 MS. FERNANDEZ: Gap analysis is where you  
9 determine what you're going to need in the future. You  
10 take a look at the aging employee population, and then  
11 you decide where we're going to need people, how many,  
12 and in what classes.  
13 And as far as what I -- My immediate goal, I  
14 think as you can hear from my opening statement, is that  
15 I want to get our costs in control. We have many things  
16 that were unfunded. State cars weren't completely  
17 funded; BlackBerries weren't completely funded. So I'm  
18 going to try to get our fiscal situation in control,  
19 including overtime, which we've had great success at  
20 this year. And also, through the BIS system, we'll have  
21 a better handle on where we're at fiscally more  
22 frequently.  
23 CHAIRMAN STEINBERG: Okay. Senators  
24 Dutton, Aanestad.  
25 SENATOR AANESTAD: Since you brought up

9

1 overtime --  
2 MS. FERNANDEZ: Yes.  
3 SENATOR AANESTAD: I, along with the rest of  
4 the public that I talk to, cannot comprehend nearly half  
5 a billion dollars in overtime costs, especially when we  
6 see -- and I'll just be frank. This was a topic of  
7 discussion at our Republican lunch today regarding costs  
8 and overspending and poor management.  
9 When we see a prisoner brought into a private  
10 hospital or one of the local hospitals by helicopter,  
11 accompanied by four armed guards at the time and four  
12 more, I believe, at the -- during the time that he was  
13 in the hospital. There were 14 separate correctional  
14 officers in charge of guarding this one individual in  
15 the hospital.  
16 In another instance in another hospital not far  
17 away where they have an entire floor dedicated to  
18 treating CDC prisoners, the ratio was two guards for  
19 each patient, which in some instances exceeds the  
20 nurse-patient ratio in California. And the hospital  
21 actually had come up with a plan suggested to CDC where  
22 for a fraction of the cost they could close the entire  
23 floor off and put one or two officers in charge of  
24 security and have it just as secure, and they could get  
25 no where with administration as far as listening to the

10



<p>status quo.</p> <p>So I'm curious as to your statement that you're controlling overtime costs when we see such rank mismanagement. And I think the public would like to have some reassurance that something is being done at the outrageous cost to the taxpayers through what I believe is mismanagement of the guards' time.</p> <p>MS. FERNANDEZ: I have to say that I agree with you. I think it's an area that we need to look at. There are three drivers of overtime, and we were at a half -- a million dollars in 2007-'08, and we're down to 375 million this year (verbatim). And the three drivers of overtime are vacant positions, sick leave, and the guarding and transportation for medical. And the two areas that we've had great success at is reducing our number of vacancies and instituting sick-leave policies so that those costs have come down tremendously.</p> <p>The medical guarding, as you know, is under the receivership as far as when they go out, if they go out by helicopter, all of that. We are working with the receiver. Things are -- over the last, probably, three months have become much more amicable between us, and we are discussing these types of issues. And that is one of the issues that we need to go after and figure it out. I agree with you completely.</p> <p>11</p>	<p>becoming collaborative with the receiver also.</p> <p>SENATOR AANESTAD: Thank you.</p> <p>CHAIRMAN STEINBERG: Senator Dutton.</p> <p>SENATOR DUTTON: Thank you, Mr. President. I actually enjoyed the time that I was able to talk with Undersecretary Fernandez, and I've got a lot of confidence -- matter of fact, I told her, I said -- the thousand BlackBerry issue. There's a lot of savings involved with that. She's already actually covered her first year of salary and benefits, so I'm actually looking forward to whatever else she may be coming up with.</p> <p>I think also, too, along the lines of what Senator Aanestad was talking about as well, I think it's important for us to also pledge we'll give her support to try to -- if there's a requirement -- I've already made this offer to her. If she's got issues or concerns, somehow we need to have some type of legislative clearance, something like that. I told her that I was sure that everybody, Democrats and Republicans alike, would certainly welcome any thoughts or ideas on how to do things more efficient and more beneficial.</p> <p>So I'm pleased with this nominee. I don't really have any questions, but I did want to make just</p> <p>13</p>
<p>SENATOR AANESTAD: Are you comfortable that you, as an individual, can do something about this?</p> <p>MS. FERNANDEZ: It won't be me as an individual. It will be our management team. It will be Secretary Cate, and it will be chief of staff, Brett Morgan, who will be working with them as we have on other issues.</p> <p>SENATOR AANESTAD: And yet -- I'll be honest with you. When we work in teams in this building, oftentimes things don't get done as much as one person with a burr under their bonnet going after it, and it gets done. I have not worked in your bureaucracy, so I don't know if there's any way we can put a burr under your bonnet, but you're certainly in the right chair to be able to effect something.</p> <p>MS. FERNANDEZ: And as I mentioned, it is one of my major initiatives, is overtime, and we do have a current analysis baselining overtime. We needed to get a handle on where we were at with overtime, what all the drivers were, get all the data together, and we're providing that to the department of finance this month. And we will be having a dialogue with them and then the receiver to figure out how we're going to move forward. And I will be driver at this, but I cannot do it alone. And we are a very collaborative team, and we are</p> <p>12</p>	<p>that general statement. And I'll be more than happy to make the motion to approve the nomination of this appointee.</p> <p>CHAIRMAN STEINBERG: Thank you. You can put the motion on the floor.</p> <p>SENATOR DUTTON: So moved.</p> <p>CHAIRMAN STEINBERG: Moved by Senator Dutton.</p> <p>I have one other question, and then we'll take the other witnesses.</p> <p>Just in terms of the strategic plan and timeframes again, when do you expect the department will complete the automation of the inmate files as Texas and other states have accomplished?</p> <p>MS. FERNANDEZ: The contract just got signed, and it looks like phase three is completed in 2013.</p> <p>CHAIRMAN STEINBERG: How many phases are there?</p> <p>MS. FERNANDEZ: There's three phases. The adult institution files will be done by 2012, parole's will be done by 2012, and DJJ will be done by 2013.</p> <p>CHAIRMAN STEINBERG: Okay. Hopefully we'll be out of the budget crisis by then. All right. Thank you.</p> <p>Witnesses in support of the nominee. The way we'll do it is let's use that mic there. If you can stand up and kind of get in line, we'll take the</p> <p>14</p>

1 testimony. Thank you.

2 MR. SNYDER: Thank you, Mr. Chairman and  
3 Members, for the opportunity to speak. It's kind of  
4 interesting, kind of casually leaning against here.

5 CHAIRMAN STEINBERG: Loosen the tie.

6 MR. SNYDER: I may sell it if things keep going  
7 the way they're going.

8 My name is Russell Snyder. I'm the executive  
9 director of the California Asphalt Pavement Association  
10 and a former quality program manager and deputy director  
11 for policy and administration for the California  
12 Department of Transportation, everybody's favorite  
13 agency. They love to hate Caltrans.

14 I'm compelled to be here, because Mary  
15 Fernandez is, hands down, the most impressive leader and  
16 manager I've ever come across in my experience working  
17 in state government and also since I left state service  
18 in 2002. Unbelievably optimistic, very effective,  
19 bulletproof credibility, able to move mountains.

20 I mean, I know that any one person can't solve  
21 all the challenges that we face today. It does take a  
22 collaborative effort. And I've never seen anybody being  
23 more effective and move the bureaucracy of state  
24 government and get things done, and get buy-in from  
25 everybody as Mary has, so I had to be here today.

15

1 I'm pleased I had the opportunity to go first.  
2 She's wonderful. She'll serve the state well, and  
3 doggone it, these days we need everybody's best efforts.  
4 So I wholeheartedly support her.

5 CHAIRMAN STEINBERG: Thank you very much, sir,  
6 for coming.

7 Next.

8 MR. HASSOUN: Good afternoon, Senator, and  
9 honorable Senate Members. I'm here in support of  
10 Undersecretary Mary Fernandez. My name is Sam Hassoun.  
11 I'm here representing the Association of Contractors of  
12 California, ACC. It's a trades association that has  
13 over 1500 heavy construction members throughout the  
14 state.

15 My knowledge of Ms. Fernandez spans well over  
16 15 years. When I worked at Caltrans, I worked in the  
17 director's office, and I was in charge of implementing a  
18 program and innovation during the Volkman  
19 administration, and Jim Valvolis (phonetic) was the  
20 director at the time.

21 The charge was for Ms. Fernandez to rally all  
22 the state agencies and to march in the direction of cost  
23 cutting, innovation, and work-improved bureaucracies to  
24 actually eliminate waste and cost. That was a tall  
25 order.

16

1 During that period when I worked with

2 Ms. Fernandez, budget times were tough. In fact,  
3 Caltrans was going through layoffs during that period,  
4 and there was a huge distrust and mistrust between  
5 management, employee unions, and the like. And despite  
6 that, it was a championship and a leadership from  
7 Ms. Fernandez that was able to rally many of us despite  
8 all types of adversity at the time, budget, personnel,  
9 and morale, and so forth, and managed to actually  
10 systematically help us stroll through the cost-cutting  
11 and the effectiveness. She also led the innovation in  
12 government shortly thereafter. And when I was working  
13 the private sector, she effectively managed to partner  
14 with private industry to solve many of the problems that  
15 government alone could not.

16 So her leadership and her ability have both  
17 been tested and she got a full focus on the problems at  
18 hand. And to come up with solutions that frankly -- and  
19 I agree with Senator Aanestad that bureaucracy alone may  
20 not be able to solve, but she knows how to leverage  
21 industry in actually cutting through a lot of the issues  
22 to provide exposure.

23 I must add she did all of that without the use  
24 of one ounce of Prozac or any substances. To that end,  
25 I lend my support to Ms. Fernandez. Thank you.

17

1 CHAIRMAN STEINBERG: Thank you very much.

2 MR. TOPPIN: Mr. Chairman and Members, Ted  
3 Toppin, for the Professional Engineers in California  
4 Government and the California Association of  
5 Professional Scientists, in strong support for  
6 confirmation.

7 PECG and CAPS have worked with Ms. Fernandez  
8 many times over the years, inside and outside of  
9 government. Most recently she is a member of the board  
10 of the CAPS and PECG's Sacramento Science and  
11 Engineering Fair, spends countless hours creating the  
12 next generation of scientists and engineers. She's  
13 smart, hard working, creative, and an asset to any  
14 organization she works in, and Corrections is lucky to  
15 have her. Thank you.

16 CHAIRMAN STEINBERG: Very good. Thank you very  
17 much.

18 Welcome.

19 MR. WOONACOTT: Good afternoon, Mr. Chair and  
20 Members. Richard Woonacott, W-o-o-n-a-c-o-t-t. I  
21 believe the Committee has my letter in its file.

22 I just wanted to be here in person to lend my  
23 support to an individual who I have had the opportunity  
24 to span three administrations working with, as well as  
25 quite a bit of time in the building. She's not only a

18



1 tremendous colleague but also a tremendous friend. I  
2 just wanted to be here to support her confirmation.  
3 CHAIRMAN STEINBERG: Thank you. Sometimes  
4 people come up and testify and say what's on the script.  
5 Every one of these folks -- you can tell it's heartfelt.  
6 Comes across. Very good.

7 Opposition. This will probably be heartfelt  
8 too.

9 MR. WARREN: Thank you for the thought.  
10 My name is David Warren. I'm appearing today  
11 on behalf of Taxpayers for Improving Public Safety.  
12 Under ordinary circumstances, we would welcome a breath  
13 of fresh air in the Department of Corrections, but as  
14 the Chair pointed out the Department of Corrections is  
15 in a horrific state, not only financially but with labor  
16 problems, problems with prison overcrowding, conflicts  
17 with the medical receiver, and all sorts of issues. And  
18 we would hope that someone with more experience within  
19 the department currently would be in this position.

20 We have problems right now at institutions  
21 where they can't find a can of oil to put into a leaking  
22 transmission. They can't -- We can't find photocopy  
23 paper or ink jet cartridges in order to print various  
24 documents inside the prison. We need someone who could  
25 call up someone at Ironwood and say, "Where are the

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1 paperclips? Why aren't they out here?" someone who  
2 could call someone at Pelican Bay and say, "You're in  
3 charge of this. Why isn't this done?"

4 This requires experience and contacts within  
5 the institutions, and, regretfully, it's been over a  
6 decade since the nominee has worked with the Department  
7 of Corrections. And for this reason and this reason  
8 alone, under the current circumstance, if some things  
9 were different, we would be supportive, but today we  
10 have to oppose the nominee. Thank you.

1 CHAIRMAN STEINBERG: Fair enough. All right.

2 Other witnesses in opposition?

3 All right. I'm prepared to support the  
4 nominee, and I do hope, though, that you take -- I  
5 forgot who said it a few minutes ago, one of the  
6 witnesses -- that you take it on yourself in this  
7 position to rattle the cages and to be very aggressive.

8 You seem to have a quiet but very effective  
9 style in getting done what needs to be done. I would  
10 just hope that you go into this position essentially  
11 with the same sense that we have that across government,  
12 certainly, including the legislative branch of  
13 government, and including the Department of Corrections,  
14 change is the order of the day, and you're in a position  
15 to help make it happen. So I encourage you to be

20

1 aggressive in that regard.

2 MS. FERNANDEZ: Thank you.

3 CHAIRMAN STEINBERG: Senator Dutton.

4 SENATOR DUTTON: In response to what you said,  
5 and I agree 100 percent with what you just said. It's  
6 been my experience, too, as a professional facilities  
7 manager and somebody who has dealt with operations, but  
8 sometimes a new broom sweeps clean, so it may be  
9 actually to our benefit right now to have somebody who  
10 is not so directly attached to the status quo or what's  
11 going on, because maybe you need to have somebody who  
12 says, "Okay. How do I -- I need more paperclips." You  
13 want somebody to ask those questions now. I think  
14 that's probably been part of the problem, maintaining  
15 the status quo. So I just -- anyway, I think this  
16 individual -- I just renew my motion, but I think she's  
17 got the capacity to do the job, so I'm pleased to  
18 support her.

19 CHAIRMAN STEINBERG: Very good. Please call  
20 the roll.

21 MS. BROWN: Senator Cedillo.

22 Dutton.

23 SENATOR DUTTON: Aye.

24 MS. BROWN: Dutton aye.

25 Oropeza.

21

1 Aanestad.

2 SENATOR AANESTAD: Aye.

3 MS. BROWN: Aanestad aye.

4 Steinberg.

5 CHAIRMAN STEINBERG: Aye.

6 MS. BROWN: Steinberg aye.

7 CHAIRMAN STEINBERG: It's three to nothing.

8 We'll leave the roll open for Senator Cedillo, who I  
9 believe is in another committee right now.

10 Your nomination will pass the Rules Committee  
11 and head to the floor of the Senate.

12 MS. FERNANDEZ: Thank you very much.

13 CHAIRMAN STEINBERG: Congratulations. Thank  
14 you.

15 (Applause.)

16 CHAIRMAN STEINBERG: Very good. All right.

17 Let's move on to Stephen L. Edinger as a member of the  
18 oil response -- excuse me -- member of the OSRP and --

19 MR. EDINGER: I'll clarify it.

20 CHAIRMAN STEINBERG: Clarify. Straighten me  
21 out, will you, please.

22 MR. EDINGER: I will.

23 CHAIRMAN STEINBERG: Welcome. Please feel free  
24 to introduce any member of your family or close friend,  
25 guest, in the audience.

22



1 MR. EDINGER: If I might, I would like to  
2 introduce my family. My lovely wife of 25 years, Terry;  
3 my three beautiful kids, Zachary, Chelsea, and  
4 Mackenzie, who are more than happy to be here, I think.  
5 I hope so, anyway.  
6 CHAIRMAN STEINBERG: Welcome to all of you.  
7 Get involved. Get involved. All right.  
8 MR. EDINGER: If I might make a brief opening  
9 statement.  
10 President Pro Tem Steinberg and Members of the  
11 Committee, it is a distinct honor and privilege to  
12 appear before you today. I am honored that Governor  
13 Schwarzenegger has placed his trust and confidence in me  
14 by appointing me to the position of administrator of the  
15 Department of Fish and Game's Office of Spill Prevention  
16 and Response. I wish to thank you, President Pro Tem  
17 Steinberg and the Members of the Committee, for holding  
18 this hearing to consider my appointment.  
19 If confirmed, you have my commitment that I  
20 will work hard to maintain the confidence and trust that  
21 the governor and you have shown in me to protect  
22 California's wildlife.  
23 I'm very proud to be sitting in this chair,  
24 seeking this confirmation as administrator of OSPR. My  
25 appointment is a reflection of my years of hard work in

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1 protecting California's systems, environment, and  
2 wildlife. More importantly, I'm proud to represent the  
3 dedicated professional men and women of the Office of  
4 Spill Prevention and Response.  
5 OSPR is an exceptional organization within the  
6 Department of Fish and Game staffed by individuals who  
7 truly believe in what they do. I sit here today humbled  
8 to know that I have their full support as administrator.  
9 If I'm confirmed, I pledge to continue efforts  
10 to improve California's protection of wildlife habitat  
11 from the devastating effects of oil spills. These  
12 efforts initiated during my tenure include increased  
13 outreach to and participation by local government,  
14 adoption and implementation of a new volunteer plan to  
15 address convergent oil spill volunteers, evaluation and  
16 adoption of new technologies to meet the statutorily  
17 mandated best achievable protection standard, expand and  
18 improve wildlife recovery and transport through  
19 development and delivery of wildlife response training  
20 to volunteers, and updating the California oil spill  
21 contingency plan. These initiatives, when complete,  
22 should pay dividends for years to come, strengthening  
23 California's environmental protection.  
24 Again, thank you for your consideration today,  
25 and I look forward to addressing any questions you may

24

1 have.  
2 CHAIRMAN STEINBERG: Thank you.  
3 You are the third administrator now in four  
4 years for the agency, correct.  
5 MR. EDINGER: (Nods head.)  
6 CHAIRMAN STEINBERG: And of course the incident  
7 that the public and the Legislature focused on preceding  
8 your tenure was the Cosco Busan incident which, of  
9 course, received wide coverage. And you say in your  
10 written response that you view the agency as the  
11 premier response organization when it comes to oil  
12 spills, and yet you also say external and internal  
13 reviews identify the need for enhanced efforts by OSPR  
14 to increase local government and volunteer  
15 participation, address fisheries closures, shorten  
16 response times, increase wildlife recovery efforts, and  
17 increase drill participation and oversight.  
18 We also know that at the time of the incident,  
19 that your office, and, again, you weren't the  
20 administrator, but I'm leading to the question here,  
21 that your office could not get to within one mile --  
22 they were within one mile of the spill. They couldn't  
23 get to the spill for two hours and 20 minutes, because  
24 there was not a boat to take them.  
25 So I guess the question that lingers here is:

25

1 Since this incident, its wide coverage, the oversight  
2 hearing that the Legislature held, is it different?  
3 And, if so, how is it different, and what have you done  
4 to make it different?  
5 MR. EDINGER: Senator, outstanding question,  
6 because the Cosco Busan was somewhat of an eye-opening  
7 event for our office. It was a response that actually  
8 went very well, if you look at the amount of oil that  
9 was picked up. The collection of oil on the water was  
10 about 43 percent, which, when you compare that to an  
11 industry standard of about 10 percent, we did very well.  
12 But we did learn many things during that  
13 response. This was the first time that we had  
14 convergent volunteers who wanted to clean up oil spills,  
15 who wanted to clean up oil themselves. We've always had  
16 people that wanted to clean up wildlife or protect  
17 wildlife, but we have never had people who want to clean  
18 up the beaches themselves. We never had this level of  
19 participation by the local government, or the desire.  
20 But we've taken all of that to heart and made many  
21 changes.  
22 During the Cosco Busan, I was actually  
23 initially assigned to the department's operations  
24 center, and I said that's not good enough, and I went  
25 down to San Francisco and took over as the state

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1 on-the-scene coordinator. And I stayed in that position  
2 for three weeks to make sure that this went well.  
3 Since the Cosco Busan, we have had many  
4 changes. We've had much more local participation. As  
5 an example, we just had a drill in the Port of Richmond  
6 a couple weeks ago where we had local participants. We  
7 had six different agencies, local agencies, where they  
8 actually participated. We were able to take somebody  
9 from local government and put them in the unified  
0 command so they were helping to make decisions. We have  
1 implemented a new volunteer plan to handle convergent  
2 volunteers. We have made many changes.

3 Once again, I think it's a proud organization  
4 that has done well; but any time we have a spill of this  
5 significance, we are going to learn things, and we will  
6 make those changes.

7 CHAIRMAN STEINBERG: Let's just take a couple  
8 of the issues.

9 Are you working on consolidating authority for  
0 pipeline regulation where apparently your office and the  
1 state fire marshal seem to share authority over the  
2 state of pipes?

3 MR. EDINGER: The state fire marshal's office  
4 does regulate pipelines. That's not something that we  
5 do. We have jurisdiction and control if there is a

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1 spill. Certainly, we work with the state fire marshal's  
2 office. We work with DOGR and other agencies to make  
3 sure that there aren't spills, but right now there is no  
4 initiative for OSPR to take over regulation of  
5 pipelines.

6 CHAIRMAN STEINBERG: If there were, you know,  
7 God forbid there'd be another Cosco Busan that would  
8 occur, are you confident that your office would be able  
9 to respond more quickly than what occurred when that  
0 incident took place?

1 MR. EDINGER: Absolutely. I think one of the  
2 failures that I looked at -- and, as I said, the room  
3 for improvement -- was the lack of getting in front of  
4 the story, the ability to get out the information that  
5 the public wants, that the public demands. We've  
6 changed that. We've put together a Web site modeled on  
7 other emergency response organizations to push that  
8 information out, to get out in front of the story.

9 If something were to go on in the Bay Area, you  
0 talked a little bit about us not having a vessel  
1 available. That was a problem that we had. We were in  
2 the process of purchasing the vessel, but it hadn't gone  
3 to rebid. That vessel is now on the water. It is an  
4 all-weather vessel that is ready to go, should this  
5 occur.

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1 CHAIRMAN STEINBERG: Questions, Members.

2 Witnesses in support?

3 Mr. Toppin.

4 MR. TOPPIN: Busy day in Rules Committee.

5 CHAIRMAN STEINBERG: There's a rule here. You  
6 only get to testify once for the Committee.

7 MR. TOPPIN: Ted Toppin for the California  
8 Association of Professional Scientists in strong support  
9 of Mr. Edinger's confirmation.

10 CAPS represents about 500 state scientists in  
11 the Department of Fish and Game, including 50-something  
12 at the Office of Spill Prevention and Response. My  
13 membership and leadership was impressed with his  
14 performance during Cosco Busan and his leadership of the  
15 department since, and strongly supports confirmation.

16 CHAIRMAN STEINBERG: Thank you, sir.

17 MR. KARNOW: Good afternoon. Jerry Karnow with  
18 the California Fish and Game Wardens' Association. We  
19 strongly support Steve Edinger for this. We believe  
20 he's an excellent candidate for this position. He has  
21 unique ability to -- and knowledge to respond to oil  
22 spills. He has overseen lots of oil spills and those  
23 situations.

24 One thing that -- President Pro Tem Steinberg  
25 you brought up the fact as far as the department having

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1 a better response to oil spills, there are going to be  
2 more oil spills like Cosco Busan, and Steve Edinger, he  
3 knows that. One of the -- Of course you guys know about  
4 the crisis about the shortage of Fish and Game wardens.  
5 The wardens, whether inland or also marine and OSPR, the  
6 enforcement officers are the ones that generally respond  
7 to these initial attacks, if you may, and also some of  
8 our patrol boats, which are state-of-the-art, a lot of  
9 times they're more at port than they are at sea.

10 So once we get that figured out and -- I think  
11 Steve's job is going to be easier. And the fact that he  
12 understands the ability to do with what he has, I think  
13 he has that in his background.

14 But the Wardens' Association supports him and  
15 hope you do the same. Thank you.

16 CHAIRMAN STEINBERG: Thank you.

17 MR. OSBORN: Good afternoon, Mr. Chairman and  
18 Members. My name is George Osborn. I represent  
19 Advanced Cleanup Technologies, Incorporated. My client  
20 is an oil spill response organization that responded to  
21 the Cosco Busan oil spill in San Francisco Bay and had  
22 the opportunity to work under the direction of  
23 Mr. Edinger. They speak very highly of him. They have  
24 had an opportunity to observe his work as administrator  
25 since he was appointed, and we strongly support his

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1 confirmation. Thank you very much.

2 MR. ARNOLD: Good afternoon. My name is Brian

3 Arnold. I'm here today representing the California Fish

4 and Game Wardens, Supervisors and Managers Association.

5 Our association wishes to support Mr. Edinger

6 for appointment to the position of administrator of the

7 Department of Fish and Game's Office of Spill Prevention

8 and Response.

9 Over the last 12 years, our members have

10 witnessed Mr. Edinger's professionalism and attention to

11 detail. Mr. Edinger has a proven track record as an

12 emergency responder, emergency manager, and a law

13 enforcement commander.

14 Our association supports Mr. Steve Edinger for

15 appointment to this position. Thank you very much.

16 CHAIRMAN STEINBERG: Very good. Are there any

17 witnesses in opposition to the nominee? If not, is

18 there a motion?

19 SENATOR AANESTAD: So moved.

20 CHAIRMAN STEINBERG: Moved by Senator Aanestad.

21 Pleased to support your nomination. You do

22 have the benefit, really, of looking at this high-

23 profile incident, and it seems to me your responsibility

24 is very well defined, which is how to make sure that

25 things -- this particular agency does better if this

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1 ever happens again, and I think you're definitely up to

2 it.

3 MR. EDINGER: Thank you.

4 CHAIRMAN STEINBERG: Please call the roll.

5 MS. BROWN: Senator Cedillo.

6 SENATOR CEDILLO: Cedillo aye.

7 MS. BROWN: Cedillo aye.

8 Dutton.

9 SENATOR DUTTON: Aye.

10 MS. BROWN: Dutton aye.

11 Oropeza.

12 Aanestad.

13 SENATOR AANESTAD: Aye.

14 MS. BROWN: Aanestad aye.

15 Steinberg.

16 CHAIRMAN STEINBERG: Aye.

17 MS. BROWN: Steinberg aye.

18 CHAIRMAN STEINBERG: Four to nothing. That

19 will move to the floor. Congratulations.

20 MR. EDINGER: Thank you very much.

21 (Applause.)

22 CHAIRMAN STEINBERG: Let's go back to

23 Ms. Fernandez and open the roll for Senator Cedillo.

24 It's a three-to-nothing vote for Mary S. Fernandez as

25 the undersecretary for the Department of Corrections and

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1 Rehabilitation.

2 Please open the roll.

3 MS. BROWN: Senator Cedillo.

4 SENATOR CEDILLO: Cedillo aye.

5 MS. BROWN: Cedillo aye.

6 Oropeza.

7 CHAIRMAN STEINBERG: Four to nothing. That is

8 out. Appreciate it.

9 Let me welcome Tam M. Doduc -- am I pronouncing

10 it correctly -- and Francis S. Weber -- Spivy Weber --

11 Spivy Weber, as members of the State Water Resources

12 Control Board. Why don't we take both nominees at the

13 same time.

14 Welcome to both of you. Again, I want to

15 extend you the privilege of introducing anybody in the

16 audience that you want to introduce.

17 MS. WEBER: I will introduce my husband,

18 Michael Weber, who is right there (indicating).

19 CHAIRMAN STEINBERG: Welcome, sir.

20 MS. WEBER: And Art Baggett from the board is

21 also here.

22 CHAIRMAN STEINBERG: Welcome, Mr. Baggett.

23 MS. WEBER: I invited him to come up and join

24 us.

25 CHAIRMAN STEINBERG: Okay.

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1 MS. DODUC: Thank you, Senator. I don't have

2 any family members here, but they are by the phone

3 eagerly awaiting a call from me.

4 CHAIRMAN STEINBERG: Okay. Very good. All

5 right. If you would both like to begin with brief

6 opening statements, we'll then ask some questions.

7 MS. WEBER: I'll start.

8 I served on the water board for just over two

9 years, and during that time, as you are probably aware,

10 we've had funding cuts, reductions in staff, and, most

11 recently, furloughs, yet the state water board has many

12 successes that I and my colleagues are building on.

13 During my tenure, we have completed nine

14 statewide policies and permits. We expect to complete

15 ten more by the end of the year and eight more next

16 year, totaling 27. Some of these policies include

17 recycled water once-through cooling, storm water

18 construction permit enforcement, and the ocean plan.

19 Our multi-pronged Bay-Delta strategy adopted

20 last summer is on track. We're starting this year with

21 work on the San Joaquin River flows and the salinity

22 issues, and next year we'll take up Bay-Delta water

23 quality planning that will go into 2011.

24 We have a new office of enforcement, and last

25 year we reduced the 14,000 mandatory minimum penalty

34



1 violations by 93 percent. This year we have adopted --  
2 or are working on and will adopt -- a statewide approach  
3 to setting penalties and have developed a policy on how  
4 to spend money, plus we're establishing enforcement  
5 performance standards.

6 We're interested in and are investing in  
7 easy-to-use, Web-based information for the public to  
8 make the water board issues more accessible. We now  
9 have a Web-based access for enforcement issues, for  
0 ocean areas of special biological significance, for  
1 sanitary sewer overflows, water rights, water quality.  
2 We're going to soon have the water quality monitoring  
3 council's Web portal up, answering questions like: Is  
4 the water safe to drink? Are the fish safe to eat? Can  
5 you swim?

6 We got \$270 million of stimulus money in  
7 May, and as of this week we have about a hundred million  
8 dollars that is out on the street, and 72 million of the  
9 hundred million has gone to urban areas, 24 million to  
0 rural areas, and 28 million to disadvantaged  
1 communities.

2 We're working on TMDLs, and I can go into that  
3 more if you have questions, and we've been working on  
4 water rights in a significant way. We have reduced the  
5 pending applications for water rights 35 percent even

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1 with the staff reduction of 30 percent. We got a Yuba  
2 agreement this year which opened up -- ended 22 years of  
3 litigation and opened up 260,000 acre feet of water in  
4 dry years and 574,000 acre feet of water in wet years.

5 We terminated permits for the Auburn Dam, and we have  
6 reduced paper water by a million acre feet by moving the  
7 Nevada Irrigation District from a permit to a license.

8 So these are successes on which we are and will build.

9 CHAIRMAN STEINBERG: Thank you very much.

10 MS. DODUC: Thank you Senator, Members.

11 Thank you for your time today. I recognize how valuable  
12 it is, so I'm going to keep my comments very short.

13 As a member of the state water board now for  
14 four years, I take very seriously the charge that we  
15 have to protect all beneficial interests and to allocate  
16 our precious water resource, balancing all the various  
17 competing needs and demands.

18 I am very proud of the work the board has done  
19 in the last four years, of which Ms. Spivy already has  
20 mentioned, but I also recognize that there is a lot that  
21 still needs to be done that must be done with urgency  
22 but also with deliberation in order to solve and address  
23 our state's tremendous water quality and water supply  
24 problems.

25 So I commit to doing so and to discharging my

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1 duties to the best of my abilities, always keeping in  
2 mind how vital water is to our state's present, our  
3 state's economy, and our state's future.

4 Thank you for this opportunity, and I look  
5 forward to having this discussion.

6 CHAIRMAN STEINBERG: Very good. I have a few  
7 questions, but I don't always have to go first. Any  
8 Member want to -- okay. I guess I am going first.

9 One of the things we're interested in, as we  
10 talk to nominees in various parts of state government,  
11 is how and whether you view yourself as a change agent  
12 or essentially an administrator of the existing law.  
13 And it is, I think, important in this area as well,  
14 because when I look at the organization here, you have  
15 nine regional water boards plus -- of nine members  
16 apiece, plus the five state members. You've got 86  
17 people, ten different entities in charge of water  
18 quality here in California. The Little Hoover  
19 Commission essentially said this is a system that has  
20 lost the confidence of most of the stakeholders.

21 So what is your view on reorganization,  
22 consolidation, and if you believe that's necessary, what  
23 are you doing in your public role to promote it and move  
24 it forward?

25 MS. WEBER: I'll let Tam go first, because she

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1 worked very hard on this last year, and I am sure we're  
2 on the same track.

3 MS. DODUC: Thank you, Fran.

4 Thank you, Senator, for that question, and my  
5 answer most definitely is I see us as a change agent.  
6 Having said that, I will tell you after the experience  
7 of the past four years, change is very hard, very, very  
8 hard, especially, as you mentioned, for an organization  
9 that's been around for almost 40 years which is so  
10 diverse and so broad, and after that we actually do  
11 share our water responsibility with a myriad of other  
12 agencies throughout the state.

13 That having been said, we did spend -- the  
14 regional board chairs and I last year, along with my  
15 colleagues on the state water board and our staff, spent  
16 a significant amount of time last year putting together  
17 a legislative proposal in response to then Senator  
18 Perata's -- I believe it was Senate Bill 1176 which  
19 proposed some reorganization to the water board  
20 structure. And the proposal that the water boards put  
21 together, we did share with your staff. We also put it  
22 on our Web site. And it proposes many, in my opinion,  
23 important and necessary changes, both addressing the 10  
24 percent conflict rule, which has stymied appointments to  
25 the board, to looking at how we can make more efficient

38

1 the TMDL approval process, to how we can strengthen our  
2 enforcement abilities, to yet looking at reducing the  
3 numbers of board members on the regional water board,  
4 and also looking at what I would view as ensuring more  
5 accountability to the regional water board and state  
6 board system by institutionalizing performance measure  
7 and metrics. And then my hope is that there's still  
8 interest in such.

9 And I'm very glad to hear you ask that  
10 question, because I do hope there is still an interest  
11 in making those changes and that we could explore those  
12 possibilities further.

13 CHAIRMAN STEINBERG: Thank you. That's fine.

14 MS. WEBER: I'll just add that so far, no one  
15 has really taken up our suggestions and moved with them,  
16 so we are actively looking for -- it's not too late, and  
17 we're actively looking for support now or in the future.

18 CHAIRMAN STEINBERG: Let me ask you about this  
19 TMDL development, which, as I understand it, is the work  
20 you are supposed to do to essentially put forward a plan  
21 to rectify bodies of water that are considered seriously  
22 impaired.

23 As I understand it, you've identified 1,900 of  
24 these TMDLs --

25 MS. WEBER: Total maximum daily load.

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1 CHAIRMAN STEINBERG: -- maximum daily load that  
2 encompass about 500 seriously impaired bodies of water,  
3 and that only 10 percent have actually been adopted to  
4 begin, I guess, what is the cleanup of these waters.  
5 Seems like a very low percentage. Is it accurate, and,  
6 if so, what's the reason for it?

7 MS. WEBER: Well, actually, the regional  
8 boards, the nine regional boards, do most of the work on  
9 TMDLs. They have actually addressed about 34 percent of  
10 the listed water bodies, but the gap is still quite  
11 large. It's not 1900. It's about almost 1500, 1483.

12 So what we're doing now at the state level is  
13 working with U.S. EPA -- they have a consultant,  
14 Tetra Tec -- and then with some of the regional boards  
15 that are particularly good at doing TMDLs, and are  
16 devising some templates and some bundling so we can  
17 start to get that number down from 1500 to a much more  
18 acceptable number.

19 The first focus that we have is on trash. That  
20 is in the works right now. There are 37 listings that  
21 would be affected by the trash TMDL, but we think that's  
22 going to be a big one for future listings, so if we can  
23 get that in place, it will at least keep the number from  
24 going up.

25 And, finally, after we do trash, we will --

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1 which it will not be easy, and it will have to be  
2 adopted by the boards, we'll -- may be moving to  
3 dry-weather bacteria, another very, very large area, and  
4 suites of pesticides, pulling several pesticides  
5 together in a suite and addressing those. So that's the  
6 plan.

7 As I said, the focus right now is on trash, and  
8 that will be -- we're going to be really experimenting  
9 and learning from that one at the statewide approach  
10 rather than letting the regional boards do their own  
11 thing.

12 MS. DODUC: If I might add to that, the other  
13 area where we've asked our director, Dorothy Rice, to  
14 look into is streamlining the state water board's  
15 process on TMDLs. It's been absolutely confounding to  
16 me that when a regional water board approves a TMDL, it  
17 sometimes takes a year to a year and a half before that  
18 TMDL is then brought to the state board for approval.  
19 Again, once we approve it, it must be approved by the  
20 Office of Administrative Law and the U.S. EPA. And in  
21 some instances, the TMDL approved by regional boards  
22 were done so without controversy or opposition, so we  
23 are certainly looking at streamlining our own internal  
24 process at the state level to quickly move the TMDLs  
25 along and remove that unnecessary delay for state board

41

1 oversight.

2 CHAIRMAN STEINBERG: All right. Are there  
3 questions from other Members?

4 Are there witnesses in support of the nominees?

5 SENATOR AANESTAD: I have one.

6 CHAIRMAN STEINBERG: I'm sorry. Go on. Go  
7 ahead, Senator.

8 SENATOR AANESTAD: First of all, I would like  
9 to say I would have liked to have been able to ask more  
10 detailed questions in a one-on-one interview, but that  
11 didn't happen. You folks apparently weren't interested  
12 in setting up an appointment with my office, so I'm --  
13 I've had to go off of your written responses to some of  
14 the questions.

15 Unfortunately, the questions really didn't  
16 cover the number one topic that's been on the lips of  
17 virtually every private and public person in my district  
18 concerning the water board, and that's your septic rule.

19 I know that the state water board has said,  
20 "Hey, that's being facilitated by the regionals," and  
21 yet you folks are the ones who are directed to develop  
22 and adopt and implement the statewide regulations for  
23 this, recognizing that each of the nine regional water  
24 boards may have a different take on how to proceed.

25 Certainly, in the 12 rural counties that I

42



1 represent where septic systems are a way of life, all I  
2 can tell you is that my perception, after having talked  
3 to the water agencies, the public officials, and private  
4 people, is that whoever wrote it, whoever developed and  
5 implemented these regulations, knew absolutely nothing  
6 about the geography of the north state, knew absolutely  
7 nothing about the economics of what this would do to the  
8 private homeowner as well as commercial enterprises and  
9 water systems, and absolutely had no feeling for the  
0 public sentiment before you went ahead and passed these  
1 rules and regulations.

2 Now, I understand you're in the process of  
3 redoing everything, which absolutely necessarily needs  
4 to be done. It should have been done right the first  
5 time. And I apologize for having to say this, but I'm  
6 not prepared to vote for your nominations today simply  
7 based on the way the 4th Senate District has been  
8 treated by both the regional and the state water board  
9 on this one issue over the last two years. It has  
0 caused so much public angst, so much private concern. I  
1 have heard from public issues probably on a two-to-one  
2 basis over any other issue, except in the last month the  
3 budget issue, on this one topic where people -- and I  
4 have not heard one good thing about the decisions and  
5 regulations coming down from the state water board on

43

1 this issue.

2 I think you failed the people in my 12  
3 counties. I'm very suspicious of what the rewrite might  
4 look like, and I believe that we need to probably look  
5 at the issue with new eyes on the state water board.

6 Thank you.

7 MS. DODUC: May I respond?

8 CHAIRMAN STEINBERG: Yes.

9 MS. DODUC: Thank you, Senator Aanestad.

0 If I may start out by saying that these  
1 regulations of which you spoke have not even been  
2 considered by the board. They are draft regulations  
3 that our staff put together, and as part of our  
4 regulatory process, the fact proposal is going to be  
5 released. The board then conducts hearings and  
6 workshops, solicits comments, and then gives directives  
7 to staff in terms of any revisions that will be made.  
8 And that's where we were and we are with respect to  
9 those regulations.

0 And I had the pleasure, the opportunity -- I'm  
1 not sure what the correct word is -- of attending, as  
2 did Ms. Spivy-Weber, many of the public workshops that  
3 were held. In particular, I participated in the one in  
4 Santa Rosa where I think we had an audience of well over  
5 1500 speakers who shared their concerns about those

44

1 proposed regulations, and the board members who attended  
2 all the workshops took very seriously those concerns.

3 We have directed our staff -- I'm not sure --  
4 We assigned a high-level staff to work with the mental  
5 health directors, to work with other stakeholders, to go  
6 over the public comments very carefully and make the  
7 necessary changes before, once again, sending out a  
8 draft for review.

9 So it is indeed a very complicated set of  
10 regulations. They are still in its very early draft  
11 form for which we are seeking input and working with  
12 stakeholders and others, at least our staff are, in  
13 order to get it to the board.

14 Let me also apologize. I know Frances as well  
15 directed our staff to contact your office -- actually,  
16 the offices of all the Committee members in order to  
17 schedule meetings, and I do apologize if that somehow  
18 was not done. And we will be most definitely happy and  
19 look forward to having the one-on-one conversation with  
20 you.

21 CHAIRMAN STEINBERG: I do have a process  
22 concern here, and that is I know Senator Aanestad is  
23 very consistent in meeting with the nominees for various  
24 commissions. And what occurred? Did you reach out to  
25 the Senator?

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1 MS. WEBER: Yes, but -- Well, Tam did, and I  
2 was waiting on her. She was going to set things up, and  
3 her staff did and heard nothing. So I don't know.

4 CHAIRMAN STEINBERG: Not true from your end.

5 Okay. Let's not argue the past. We are  
6 missing one Member today, all right? Senator Oropeza is  
7 absent today, and so what we're going to do is put the  
8 nominations over for a week, and I'm going to ask both  
9 of you to please make a point and schedule it now, if  
10 you can facilitate that, to meet with both Senator  
11 Aanestad and Senator Dutton, to have a lengthier  
12 conversation about the issues that you raised and/or  
13 other issues. All right.

14 Let's hear from any witnesses in support here  
15 today. We'll take the witnesses.

16 MS. CANTU: Celeste Cantu, general manager of  
17 Santa Ana Watershed Project Authority, SAWPA. We urge  
18 your support. Thank you.

19 CHAIRMAN STEINBERG: Thank you very much.  
20 Mr. Harris.

21 MR. HARRIS: Mr. Chairman, Richard Harris on  
22 behalf of the Water Reuse Association, the state's  
23 producers and end users of recycled water.

24 Senator Aanestad raises an interesting  
25 question. If I just might give you a personal

46



1 experience that our organization had with the board.  
2 We're here in full support of both of these individuals  
3 and their leadership, and the ability -- and I'm not  
4 familiar with the septic-tank regulations that you're  
5 discussing, but the process that you described is  
6 similar, I think, to what I was living when we were  
7 developing the recycled water policy over a couple years  
8 ago. And it started in a similar sort of fashion with  
9 information that was out there to our organization and  
10 to the stakeholders, really not where we needed to go  
11 and not the right way to address it. And through their  
12 leadership and their ability to understand and take  
13 their dual role of wanting to help us expand our state's  
14 water supply, as well as to protect water quality, but  
15 understanding there were problems between both, they  
16 would bring that together, brought us together.

17 We established a stakeholder process and had  
18 the industry as well as the environmental community and  
19 all the aqua agencies, and came up with, then, a  
20 document through the stakeholder process on recycled  
21 water and recycled water policy that I think is far and  
22 away one of the best in the  
23 United States and will really lead to more increased use  
24 of recycled water, which we have to do. It's the  
25 state's only new water source.

47

1 And it was really through their leadership and  
2 their ability to take that initial document information  
3 and process that wasn't right and then turned that into  
4 something that became a real win, win, win, win, win,  
5 for everybody. So it's a little bit of personal  
6 experience with them.

7 But as you have your one-on-one with them,  
8 which I am sure you will find informative, we would  
9 appreciate your total support with them in moving  
10 forward. We think they've done a great job. Thanks.

11 CHAIRMAN STEINBERG: Thank you.

12 MR. HAWKS: Mr. Chair and Members, my name is  
13 Jack Hawks. I'm the executive director of the  
14 California Water Association. Our members are water  
15 utilities regulated by the California Public Utilities  
16 Commission. We're here in strong support of both the  
17 nominees. We have a closer working relationship with  
18 Ms. Spivy-Weber, so I wanted to say a few words on her  
19 behalf.

20 Number one is that she has great strengths in  
21 terms of facilitating and bringing together and managing  
22 the discussions amongst the disparate water interests,  
23 which we all know there's quite a few.

24 Number two, and Senator Steinberg asked me to  
25 speak from the heart, she's got a little bit of

48

1 E.F. Hutton in her. When she speaks, people do listen.  
2 In fact, when she's speaking at a water policy meeting,  
3 an industry conference, whatever, and there's a bunch of  
4 people out in the hall, when she goes up to the podium,  
5 people actually come in and sit down and listen to what  
6 she has to say, and I think that speaks greatly to her.  
7 So the California Water Association supports both.

8 CHAIRMAN STEINBERG: Thank you.

9 Mr. Dillon.

10 MR. DILLON: Mr. Chair and Members, Mike Dillon  
11 representing the California Association of Sanitation  
12 Agencies, all the major wastewater agencies in the  
13 state, including some of the big cities like  
14 San Francisco and Los Angeles and San Diego. We too  
15 would recommend reappointment of both nominees.

16 Ms. Doduc has brought a lot of experience to  
17 the board, and we've been working with her a number of  
18 years. Our folks -- In your packet, by the way, is a  
19 letter from Roberta Larson. She's the director of legal  
20 and regulatory affairs. She works with the board  
21 members and the staff all of the time, and she has great  
22 respect for both.

23 Just to reiterate what Mr. Harris said, every  
24 year, including this year, there's a number of bills  
25 urging us to do more and more and more on water

49

1 recycling, and so the effort that Ms. Spivy-Weber led to  
2 bring about the water recycling policy for California is  
3 extremely important. So we would recommend their  
4 reappointment. Thank you.

5 CHAIRMAN STEINBERG: Thank you.

6 MS. BYRNE: Mr. Chair and Members, Barbara  
7 Byrne, Planning and Conservation League. We're also  
8 here today in strong support of both nominees.

9 I would like to second what Richard Harris  
10 mentioned about the process that brought about the  
11 recycled water policy that the state board adopted this  
12 February. The Planning and Conservation was also part  
13 of that process, initial shock, and then later  
14 happiness. We appreciate their work with recycled  
15 water, the topic of the day. Planning and Conservation  
16 here is also a sponsor of the recycled water bill and  
17 thanks to, particularly,  
18 Ms. Spivy-Weber, she was able to help us out with the  
19 technical assistance from the board's staff. We also  
20 worked with Richard Harris. More stakeholders got in,  
21 and the bill is much stronger now, thanks to the very  
22 practical recommendations that the board was able to  
23 have. So we urge your aye vote when the time comes, and  
24 we hope that time is soon. Thank you.

25 MR. UNG: Mr. Chairman and Members of the

50

1 Committee, Phillip Ung on behalf of The Nature  
2 Conservancy here in support of Ms. Spivy-Weber. No  
3 offense to Ms. Doduc. We actually just don't have a  
4 comment for her other than --  
5 MS. DODUC: I'm actually a member, I think.  
6 CHAIRMAN STEINBERG: Okay.  
7 MS. DODUC: I'll give that tote back.  
8 CHAIRMAN STEINBERG: Are there any witnesses in  
9 opposition?  
10 All right. Again, without objection, I think  
11 we'll put this over for a week. And, again, I would  
12 encourage you to get together with both Senator Aanestad  
13 and Senator Dutton at your convenience. Thank you both  
14 very, very much. Appreciate it. See you next week --  
15 or wait. You don't need to reappear next week. I don't  
16 think you do.  
17 All right. I want to move through the rest of  
18 the agenda. As I understand it, Senators Dutton and  
19 Aanestad, the issues that you would either like to  
20 separate or put over are 2E -- I'm going to ask that we  
21 put over 2E. All right?  
22 SENATOR AANESTAD: All right. Yes. Correct.  
23 CHAIRMAN STEINBERG: File item 6. Do you both  
24 object to file item 6? Should I put it over or separate  
25 it?

51

1 (Discussion off the record between Rules  
2 Committee Members.)  
3 CHAIRMAN STEINBERG: Let me start over. Hold  
4 on. Let's take up 2, with the exception of E, 3, 4, 5,  
5 7, 10, 11, 12, 13, 14, 16, 17. Okay. Very good.  
6 Motion?  
7 SENATOR DUTTON: So moved.  
8 CHAIRMAN STEINBERG: Moved by Senator Dutton.  
9 Please call the roll.  
10 MS. BROWN: Senator Cedillo.  
11 SENATOR CEDILLO: Aye.  
12 MS. BROWN: Cedillo aye.  
13 Dutton.  
14 SENATOR DUTTON: Aye.  
15 MS. BROWN: Dutton aye.  
16 Oropeza.  
17 Aanestad.  
18 SENATOR AANESTAD: Aye.  
19 MS. BROWN: Aanestad aye.  
20 Steinberg.  
21 CHAIRMAN STEINBERG: Aye.  
22 MS. BROWN: Steinberg aye.  
23 CHAIRMAN STEINBERG: That passes. 2E, 6, and  
24 15 will be put over to next week, without objection.  
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1 (Thereupon, the Senate Rules Committee hearing  
2 adjourned at 3:00 p.m.)  
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2 I, INA C. LeBLANC, a Certified Shorthand  
3 Reporter of the State of California, do hereby certify  
4 that I am a disinterested person herein; that the  
5 foregoing transcript of the Senate Rules Committee  
6 hearing was reported verbatim in shorthand by me,  
7 INA C. LeBLANC, a Certified Shorthand Reporter of the  
8 State of California, and thereafter transcribed into  
9 typewriting.  
10 I further certify that I am not of counsel or  
11 attorney for any of the parties to said hearing, nor in  
12 any way interested in the outcome of said hearing.  
13 IN WITNESS WHEREOF, I have hereunto set my hand  
14 this 14<sup>th</sup> day of July, 2009.  
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APPENDIX



Senate Confirmation  
Mary S. Fernandez  
Undersecretary  
Responses to Senate Rules Committee Questions  
June 11, 2009

Mary Fernandez  
Responses

Senate Rules Committee

JUN 12 2009

**Statement of Goals**

Appointments

*Under the direction of the Secretary, the undersecretary of Administration directs the administrative functions of CDCR, including the Division of Support Services, Facility Planning, Construction and Management, the Corrections Standards Authority, audits, internal affairs, research, legal, legislation, civil rights, communications, labor relations, and various other functions, according to your official CDCR job description. The department now has two other undersecretaries for Operations (parole and custody) and Programs (education and drug treatment), but the Program position is not authorized in statute and therefore not confirmable.*

*With more than 60,000 employees, CDCR is the largest single department of state government. It is responsible for incarcerating about 170,000 adults in 33 institutions and 40 fire camps and other facilities, and 1,800 juveniles in 6 facilities and 2 camps. The department manages another 126,000 adult parolees and approximately 3,000 juvenile parolees. The stated mission of the department is to improve public safety through evidence-based crime prevention and recidivism reduction strategies.*

- 1. Please provide us with a brief statement of your current goals as undersecretary, including the guiding principals that you bring to the job. What do you hope to accomplish during your tenure as undersecretary of the department? What is the timeline for meeting your goals? How frequently do you measure progress?***

My primary guiding principle as Undersecretary of Administration is to ensure that taxpayers' dollars are spent in the most effective way possible by continuously improving and monitoring all processes under my purview while ensuring the safety of our clients and staff. In addition, I ensure that staff understand their role, are well trained for their duties, are encouraged to improve our organization, and are recognized for their contributions. My current goals as undersecretary include: determining which processes are working and which need improvement in specific areas – budgets, accounting, human resources, business services, information technology, facilities and construction, and labor relations. This includes the implementation of an Enterprise Resource Planning software system, known as Business Information System (BIS), to move these functions into the 21<sup>st</sup> century with automated processes and systems. I am working to put additional metrics in place for these functions to ensure accountability for the Department's resources and that staff are meeting CDCR's administrative needs. I have set the one-year mark, October 2009, to complete the improvement initiatives I currently have underway. All of these projects have charters and action plans that I review and hold status meetings with Cabinet on a monthly basis. As I complete these projects, I will move on to other areas that I have identified as needing improvement.

**2. Much of your career was spent at the Department of Personnel Administration and the State Personnel Board. What lessons do you bring from that experience that you can apply at CDCR?**

I bring many lessons from all of my previous jobs including the Governor's Office for Innovation in Government, Department of Personnel Administration (DPA), State Personnel Board (SPB), and California Teachers' Retirement System. Specifically from DPA and SPB, I bring the experience of implementing change for a large organization – all of state government. While these are small departments, their policies and procedures impact every state employee. For example, SPB implemented the new on-line Staff Services Analyst examination, replacing the in-person written examination. This change impacted state employees and the general public interested in employment with the state. We used good change management practices in implementing this initiative by working in partnership with the unions, state departments, colleges and universities, etc. to ensure a successful rollout.

The most important lessons I bring from my experiences include: developing a strategic plan can change the focus of an organization very quickly; project charters, action plans, and performance metrics ensure improvement initiatives are completed timely and effectively; challenging the status quo is a good thing that may not be popular, but it is necessary; and succession planning is essential to ensure knowledge is transferred as leadership changes.

**Reorganization and Coordination of Responsibilities**

*On July 1, 2005, the Youth and Adult Correctional Agency was reorganized pursuant to Senate Bill 737 (Romero), Chapter 10, Statutes of 2005, into CDCR. The intention of the reorganization was to improve the effectiveness and efficiency of the departments and boards that made up the former Youth and Adult Correctional Agency. Former Secretary James Tilton said that when he assumed office he realized that the single undersecretary position had 20 senior managers reporting to it and that "was clearly too wide of a span of control for only one individual." So he created your position and later established a third undersecretary for programs.*

**3. As a key manager, how would you evaluate CDCR almost four years after the July 2005 reorganization of corrections? If the reorganization's intention was to improve effectiveness and efficiency, where do you see significant progress and where does the most work still need to be done in the areas you administer? Please be specific.**

My experience with CDCR dates back to the 1980's and early 1990's while I was employed by the DPA. The biggest improvement I see is in the Information Technology (IT) initiatives and in the Human Resources (HR) initiatives. IT is moving forward with



streamlining and automating business processes with the BIS project, and the Strategic Offender Management System (SOMS) project will streamline and automate inmate case records. CDCR has one of the most progressive succession plans of any State department, and CDCR's leadership training is also a best practice for the State. All areas I administer need improvement in their processes and procedures. I anticipate the new BIS will eventually improve many of these processes. The labor relations function has struggled in recent years, but in partnership with DPA appears to be stabilizing its processes. The facilities and construction program has the most experienced project staff in state government. This program has been finalizing the current construction plans and recently put together a plan to manage, in a cost effective manner, our multiple leases across the state.

***4. Based on the department organization chart, you have 11 divisions under your control, from Human Resources to Project Construction Management. How do you determine the effectiveness of your managers? Do you have specific goals for each manager? How do you measure their progress? Do you have timetables for managers to meet goals?***

As noted in my cover memo, the organization was reorganized prior to my appointment. The enclosed organization chart delineates the administrative operations for which I am now responsible. I have several ways of measuring the effectiveness of my management team. Some of these include: attending their staff meetings on a regular basis; walking around and talking with working level staff to get their input; asking for staff presentations on various topics and projects; reviewing most grievances and complaints and addressing the findings with my managers; reiterating my open door policy to ensure staff feel comfortable coming to me on important and/or sensitive issues; reviewing performance metrics that are available for workload and production; meeting regularly one-on-one with each manager; and talking with customers to obtain feedback on my management team, programs, and services.

Additionally, HR has developed and maintains a performance management system that monitors key indicators, which include measures for filling vacancies in a timely manner, customer service satisfaction, budget performance, training satisfaction and effectiveness, processing times for hiring correctional officers, and recruitment satisfaction. The HR management team convenes on a monthly basis to report on their measures and creates action plans to ensure improvement is achieved, as well as discuss limitations and/or obstacles to success in specific areas. This system assists me in measuring the overall effectiveness of HR. I am currently working on developing a performance management system that monitors additional key indicators for my other programs using CDCR's Computer Statistics (COMPSTAT) tool.

Lastly, in collaboration with DPA and the Human Resources Modernization (HRMOD) project, I am drafting a department-wide proposal to establish an annual performance evaluation process. As part of the evaluation process, managers would participate in an



assessment and establish an action plan in alignment with CDCR's strategic plan and the developmental areas noted in the assessment instrument and supervisory input. The following year the process would be repeated and the managers' performance would be measured on their ability to execute their plan. After which, new goals would be set for the following year. This would be a pilot with the HRMOD and eventually rolled out for all State managers.

### **Operational Issues**

*Last year, Mr. Runnels, then undersecretary for Operations, said ongoing operational issues are formally monitored through the COMPSTAT process. He said COMPSTAT allowed CDCR's executive team to review adult, juvenile and parole operations to identify systemic issues that need to be addressed. COMPSTAT was developed by former New York City police commissioner William Bratton, now Los Angeles chief of police, partly to hold managers accountable for their performance as measured by these data. In New York and Los Angeles, the statistics are publicly posted on the department Web sites on a regular, sometimes weekly, basis. One key issue highlighted by COMPSTAT is the cost of overtime. Mr. Cate has said that reducing overtime, as well as establishing other fiscal controls, is one of his top priorities.*

**5. What is your role in the COMPSTAT process? Have you found COMPSTAT to be an effective tool to hold your managers accountable? If so, please explain. If not, why not? What red flags do you look for on a regular basis?**

I am on the COMPSTAT governance committee and regularly attend COMPSTAT mission specific meetings. In this role, I review the current data collected, make decisions on which performance measures to change or update, and recommend other areas of CDCR that need to report key performance indicators. COMPSTAT plays an integral role in helping CDCR monitor organizational effectiveness and track performance measures. The data provided by COMPSTAT allows us to hold managers and directors to a high level of accountability and, at the same time, provides them with the autonomy and authority to develop their own performance measures to accomplish their goals.

COMPSTAT has created an environment in which managers take an active role in monitoring trends and analyzing measures critical to their success and performance. This process has reinforced internal accountability between Cabinet, managers, and staff. On a regular basis, we monitor vacancies, overtime, and sick leave. We are able to use information from COMPSTAT to track trends and measure critical fiduciary areas. We are also able to track and analyze attrition rates, which allows the Department to prepare succession planning strategies due to the growing number of employees projected to retire in the next 10 years.

**6. As you study COMPSTAT figures, what emerging trends stand out over the past year from your analysis? Where are you making progress? In what areas do you need to make improvements? Do you support following the examples of Los Angeles and New York and posting the figures publicly?**

An emerging trend is that both sick leave and overtime have been on a downward trend since the Department implemented stricter controls. CDCR's executive staff monitors these performance measures at the institution, mission, and Department levels. COMPSTAT has improved the accuracy of the data and made the information available to managers at the prisons and headquarters. Additionally, we just implemented a process to collect current and accurate position vacancy data which is key to managing our overtime expenditures.

I need to make additional improvements in our fiscal monitoring capabilities. When I was appointed, this was one of the areas the Secretary asked me to focus on. I currently have a project team working on this initiative. The institutions' budget allotment and expenditure data was also recently added to COMPSTAT. We are fine-tuning this data and will be poised to connect with BIS when it is implemented later this summer.

Yes, I support posting some of the high-level COMPSTAT information publicly. While working for the Davis Administration, one of the initiatives I lead was the "California Scorecard." This website was developed to post key performance measures for state agencies and was modeled after "Open.Virginia.gov." Unfortunately, the website was not implemented before the end of the Administration. At CDCR, we track more than 500 data items on a monthly basis so we would need to discern the topics of interest and roll-up the data so it is informative and not overwhelming. I believe posting high-level information will provide transparency and help people understand the magnitude of our operations.

**7. In recent years, the department has budgeted \$100 million for overtime costs, while \$400 million or so is being spent, leaving a \$200 million gap. Mr. Cate says you have reduced overtime by about \$88 million in the first seven months of the current fiscal year. What is the biggest driver of overtime, and what new initiatives are you taking to try to further control these costs?**

Primarily, overtime has been reduced in the current fiscal year due to the Department's success in filling custody vacancies. Correctional Officer vacancies have significantly contributed to overtime expenditures over the past several years. CDCR has been working to refine its tracking of overtime and the individual causes of overtime. Budget staff has provided proper coding training to departmental staff and is monitoring the pay and absence coding. This effort has resulted in significant improvement in accurate overtime coding statewide.



For the current year, our data shows that medical guarding and transportation, primarily for the Receiver, is the single largest category of overtime expenditures. Sick leave is the second largest category of overtime expenditures and the third contributing factor is vacant positions. Overtime related to sick leave is closely linked to vacant positions. As vacant positions decline our analysis shows that overtime related to sick leave also declines. Furthermore, the Department has implemented a new sick leave policy that will assist in reducing overtime related to sick leave. These measures include: 1) the elevation of approval for overtime to administrator level, 2) the readjustment of parole agent workload (modification of parolee contact requirements), 3) the delegation of mandatory training to qualified noncase carrying agents, supervisors, and parole agents whose caseloads are below the maximum, and 4) the redistricting of two regions, thus decreasing hours of overtime, and greatly improving agent productivity by localizing cases and reducing miles driven and fuel consumption in the region.

Another project I am sponsoring is the Overtime Project Team. The team is tasked to gather, review, and analyze overtime data, and propose a comprehensive plan to reduce and control overtime, including development and implementation of effective policies and procedures. This includes specific analysis to pinpoint institution-related overtime issues and come up with an action plan to address these issues. This will enable us to develop policies and address the drivers of overtime, while controlling our expenditures so we can request a realistic, supportable overtime Budget Change Proposal from the Department of Finance (DOF) and the Legislature.

***8. Late payments to some of the department's suppliers of services—including health care, parole services and other program providers—have complained for years of chronic lateness in reimbursement. What percentage of bills are paid on time? If so, what is the breakdown? What are you doing to ensure that your accounts are current and providers are reimbursed promptly?***

CDCR is one of the largest purchasers of goods and services for the State of California. As such, it naturally leads to a large number of invoices and a dedicated number of providers who continue to provide goods and services during these difficult times. While we currently do not track the percentage of bills paid on time, our accounting operations believe the vast majority of providers are paid on time. Payment delays are, in large part, due to issues beyond our control. As a 24-hour operation charged with providing constitutional care to inmates and wards, the Department cannot slow down purchasing and, when there are budgetary problems such as the late passage of the budget that has occurred over the past several years, and the forced slowdown by the State Controllers Office (SCO) that occurred this year, CDCR's vendors suffer the consequences. In this year alone, payment processes were affected for over five months. Every late invoice requires computations to be completed to determine the amount of penalties. Inquiries from vendors checking on the status of their payments also significantly increase.



Additionally, the workload on our accounting operations continues to rise without a corresponding increase in the number of staff. As an example, the number of invoices we receive for contracted medical care has almost tripled with the implementation of court orders. In FY 2005-06, we processed approximately 155,000 invoices. In the current year, we have processed approximately 400,000 invoices.

CDCR also inevitably makes mistakes due to the significant volume of invoices processed. These mistakes may include: a lost or misdirected invoice which requires a late payment penalty; an invoice not disputed timely; an invoice not approved timely; etc.

We have identified and are implementing several solutions to alleviate some of the problems, including 1) transitioning to BIS. While it is not yet fully implemented, we believe it will help CDCR track invoices and use some industry- standard tools to help manage invoices to ensure timely payments; 2) conducting a pilot project wherein nonaccounting staff enters invoices into BIS. This has the effect of getting invoices into the payment process sooner without having more accounting staff; and 3) actively recruiting to fill critical vacant accounting positions.

No matter what the cause for the late payment, CDCR works with the vendors and the SCO to make the required payments as quickly as possible and get the penalties paid. Currently, we are beginning to catch up on paying penalties to our vendors who were impacted by the SCO-mandated delayed payments; however, it will take some time due to the quantity of items that were delayed.

### **Facilities/Construction**

*The Legislature approved AB 900 (Solorio and Aghazarian), Chapter 7, Statutes of 2007, the Public Safety and Offender Rehabilitation Services Act of 2007. This act is intended to finance construction of space for thousands of state inmates and create a broad range of performance measures that the department must meet. Based on March 2009 figures and subject to further modification, the AB 900 first-phase construction plans call for the creation of space for 2,630 to 4,800 inmates at a cost of \$1.2 billion. You have a chief deputy for Facility Planning, Construction and management (FPCM) who reports to you.*

- 9. *There are many moving parts in terms of the California prison population including an overcrowding lawsuit, the federal receiver's plans, and recent policy initiatives that could result in a significant reduction in population. How does the AB 900 plan fit into the overall population management plan?***

Population management is the most foundational element to CDCR's operations. CDCR's staffing, resources, facilities, services and over-arching operational objectives

are all based on what population is being served and the unique requirements of that population, both in-prison and on parole. CDCR has developed forecast models for its juvenile wards and adult inmates, and even subsets of its population such as forecasting mental health patients, security levels, etc, and has forecasted significant shortages of beds in the coming years. CDCR accommodated that growth primarily through increasing its overcrowding rates. CDCR, the Administration, and the Legislature passed AB 900 in May 2007 in order to build additional capacity in CDCR prisons and to alleviate overcrowding in an effort to prevent a release order by the federal court.

Subsequent to the passage of AB 900, fiscal challenges have forced CDCR and the Administration to look at reducing the State's prison population through various reform and budget measures in order to reduce CDCR's impact on the General Fund deficit. At the same time, the three-judge panel in the overcrowding case has at least tentatively ruled that the State's prisons are overcrowded by as much as 50,000 inmates and such overcrowding would require a release of prisoners and a cap of the total population in order to mitigate the effects of overcrowding. One of those effects, as determined by the three-judge panel, is the inability to deliver constitutional levels of healthcare. The Federal Receiver in the Plata case had proposed to build up to 10,000 new healthcare beds in addition to the construction of new infill and reentry beds contemplated under AB 900.

CDCR's response to its population pressures has been to develop an Integrated Strategy Plan that will guide its population management. The plan includes construction through AB 900, construction of some healthcare beds, and improvements through a combination of funding sources, parole reform, and other policy initiatives that will reduce the population. This multi-pronged approach is aimed at building the appropriate type of housing and treatment space for the most high risk, high need inmates currently under the State's jurisdiction in the most cost effective manner possible.

AB 900 is a critical piece of CDCR's Integrated Strategy Plan and represents the most viable and immediate plan to build sufficient capacity for CDCR to help mitigate the overcrowding levels in the prisons, thereby limiting the impact of a federal release. The overcrowding levels are most severe in the reception centers and the Level III and IV population subsets given the shortage of facilities. Inasmuch as any prisoner release order would impact the lower levels of offenders under CDCR's authority, it is critical that sufficient celled capacity is built in order to avoid an overcrowding order forcing CDCR to extend a prisoner release to a more dangerous population of inmates. AB 900's plan has been revised to eliminate low-level dorm beds in favor of building more cells as well as building additional mental health and medical facilities for long term care of inmates and at least one reception center to address the severe shortage in that category.



Unfortunately, given the current fiscal challenges faced by the State, the funding necessary for building capacity at existing institutions, new reentry sites and even healthcare beds threatens the ability of CDCR to be proactive in minimizing the impact of the three-judge ruling. At current cost estimates, CDCR anticipated building approximately 18,000 infill and reentry beds, and approximately 3,300 healthcare beds, less than half the amount identified in the tentative ruling by the three-judge panel. CDCR and the Administration are taking the opportunity presented by these unique set of challenges to put forth a comprehensive plan of parole reform aimed at reducing the need to incarcerate low-risk offenders, saving the taxpayers hundreds of millions of dollars annually. These reform measures will also have a positive impact on reducing the population and it is hoped that the combination of added capacity for high-risk, high-need inmates and lowered population of low-risk offenders will enable CDCR to help the State through this budget crisis and begin to reshape the manner in which CDCR manages its population well into the future.

***10. What are your responsibilities for implementation of AB 900? Which are under the supervision of the other undersecretaries? How do you coordinate with other undersecretaries? What role do you play in monitoring implementation?***

The Chief Deputy Secretary of Facility Planning, Construction and Management (FPCM) reports directly to me. Part of FPCM's and my role is to ensure that all programmatic elements of CDCR's facility planning efforts, including AB 900 construction plans, are incorporated at the earliest phase of design. In the case of AB 900, each specific program (i.e. Infill, Healthcare, Reentry, and Jail bond funding) is managed by appointed program managers who conduct planning sessions, hold bi-weekly briefings with CDCR programs on progress, and perform all the design and construction oversight required by each project. For example, AB 900 required that new construction provide for full programming and there is certainly an expectation in light of the current court cases regarding healthcare that the new construction also provide for adequate healthcare space. These requirements are incorporated into the design objectives and ongoing communication is maintained with CDCR divisions to ensure their programmatic needs are met. I, along with the other Undersecretaries, meet with other members of Cabinet routinely to establish the overall vision of AB 900, key milestones, and major operational objectives. Progress is measured through routine AB 900 benchmark meetings with the Secretary. These meetings will increase in frequency and specificity once AB 900 funding to proceed with design is available and the program is fully operational. In addition to monitoring this progress, I will ensure all critical resources needed for effectively implementing AB 900 are available to the AB 900 teams.

Lastly, the FPCM holds bi-weekly meetings on all AB 900 projects and critical milestones are reported at each of these meetings, with critical-path issues raised and



obstacles or delays in schedule identified. Any schedule impacts, fiscal overruns, and scope implications are reported to me.

**11. What is your current best estimate on the amount of space you will build in the first phase? Why are these numbers seemingly changing on a regular basis? When do you expect to break ground on the first of these projects?**

*Debra Hysen, your chief deputy secretary, indicated that in May 2007 FPCM consisted of 290.5 authorized personnel. After May 2007 FPCM increased to 397 authorized personnel. Of the 397 authorized positions, 88.5 were authorized under AB 900; 12 positions were redirected from the Division of Adult Institutions, and 3 positions were redirected from the Division of Juvenile Justice to create a new Maintenance Services Branch with regional oversight of plant operations. Since May 2007 FPCM has filled 17 of the 88.5 positions authorized by AB 900 (19.2 percent).*

Currently, we anticipate building enough beds for 8,000 inmates in Phase 1 of the Infill Program, spending approximately \$1.8 billion. These numbers have changed due to, a) the extent population changes have driven a different kind of facility (as further described in the response to Question 9 above), and b) revised cost estimates based on changing market conditions due to delay and the impact the delay has on the total conceptual cost estimates. Additionally, CDCR has been working with the Receiver over the last six to eight months to analyze the feasibility of housing some of the general population inmates it had previously planned to place in the Consolidated Care Facilities contemplated in SB 1665 within its infill facilities. These inmates are currently housed in existing prisons and receive outpatient services and CDCR believes that some of the infill sites would be ideal to house this population of offenders and the Federal Receiver has concurred. Lastly, a Division of Juvenile Justice (DJJ) site considered for closure affords CDCR the opportunity to leverage an existing facility that will maximize the number of beds gained for adults at a lower cost than new construction.

The ground breaking for these sites is predicated on obtaining funding for design of the AB 900 Infill and Reentry projects. Only one mental health project has been authorized for funding to date from AB 900's lease revenue appropriation due to the condition of the Pooled Money Investment Account and the pending Taxpayers for Improving Public Service (TIPS) litigation, which remains unresolved. Once funded, CDCR can begin its preliminary plans and working drawings and, if approved at that juncture, can proceed to the construction phase. Groundbreaking for new projects is anticipated to occur within 18 months to two years following initial funding of design work.

**12. How large do you see the construction staff growing in the coming years as new facilities are being planned?**

The Legislature authorized six General Fund and 82.5 Lease Revenue Funded (LRF) positions, for a total of 88.5 authorized AB 900 positions. The six General Fund

positions have been filled. Eleven of the LRF positions have also been filled; however, without LRF funds that can only be made available following the financing approval of the Pooled Money Investment Board, these positions cannot be properly funded. Therefore, FPCM redirected funds from other areas within its program to temporarily fund the 11 positions. CDCR has been very judicious in minimizing the total number of unfunded AB 900 positions to that which is critically necessary. There are approximately 17 AB 900 positions that have been filled as of May 2009. As each project is authorized and funding approved, additional personnel will be hired into the authorized positions.

The construction staff and related support staff (i.e. planning, contracts, etc.) within FPCM are anticipated to grow to the authorized amount of 88.5 AB 900 positions. It was CDCR's intent to seek an increase of positions above the authorized amount as the program proceeded into its construction phases (years 3-5) to more effectively manage the workload. However, given the current economic condition of the State, it is FPCM's intent to limit additional growth in this program to only critical workload needs that cannot be met through its private sector counterparts working alongside CDCR staff in these program areas. All of the AB 900 positions will be billable out of the project's costs and CDCR will work aggressively through the project's duration to limit total expenditures.

***13. With many prisons in remote locations, what are you doing to recruit and retain workers for maintenance and construction positions? How many vacancies do you have currently? As you gear up for more construction projects, how many additional staff positions will you need, and are you recruiting the staff now?***

The remote locations pose some challenges, not only for attracting CDCR project staff but also for recruiting and retaining outside contractors and consultants. However, the economic conditions that exist currently, and in the foreseeable future, provide a significant window of opportunity to CDCR's building program that we believe will not only afford CDCR the opportunity to hire State employees, but also our partners in consulting and contracting firms.

CDCR has established lists and conducted testing for a number of positions and is ready to make job offers on a number of these. However, the offers have been postponed due to the uncertainty surrounding AB 900 funding as these are all lease-revenue funded and without project approval and interim financing, CDCR cannot absorb these costs. FPCM plans to begin an aggressive recruitment when the AB 900 program is fully implemented but believes that its existing personnel can handle the current tasks at hand until funding authorizations are received. Lastly, all consulting firms necessary for the design stages of construction have been retained and upon funding, contracts will be executed to begin this stage. Once these contracts are in place, they too will begin increasing their staffing levels.



*CDCR's Master Plan Annual Report for 2008 says the Department was planning on 275 female residential multi-service center beds in Fiscal Year (FY) 2007-08, 150 in (FY) 2008-09, and 150 in (FY) 2009-10, for a total of 575 beds. They note that 25 beds were activated in April 2008 in Sacramento, and that a request for proposal for 250 beds was released May 12, 2008, with bids due September 11, 2008.*

**14. What is the plan for the other 300 beds? Will they be constructed? What is the timetable for establishing these facilities? What has the department done with the funds earmarked for these female facilities with the projects behind schedule? Do the funds revert back to the General Fund?**

A recommendation was made by Cabinet and approved the Secretary to temporarily delay the initiatives to expand and fund these programs due to severe budget cuts and until CDCR's population reforms and the impact of those reforms on the female population is known. All savings will revert to the General Fund and have been reported to DOF on a monthly basis.

### **Infrastructure**

*Overcrowding has resulted in heavy usage of sewage and wastewater systems in some prisons. Prison managers complain about their inability to keep up with regular maintenance. Local communities frequently complain about the impact of CDCR facilities on the surrounding area.*

**15. Please describe the department's efforts to address the issue of infrastructure degradation and any expected time frames for improvements. How do you prioritize the competing infrastructure needs at different institutions?**

Infrastructure degradation is a major issue facing CDCR for a number of reasons, two of which are overcrowding and aging infrastructure. Because of inadequate funding necessary to maintain its buildings, CDCR has had to perform complete overhauls or replacements of building components earlier than their predetermined obsolescence. Recent examples of this have included entire plumbing lines, roofing systems, and even cell doors that have corroded once their protective coating wore out over time without being reapplied. In some cases, failures are catastrophic due to lack of ongoing maintenance such as, a cogeneration plant that became inoperative for several years due to the lack of funds despite the fact that when operational, it generated \$1 million annually in revenues. In nearly every type of building system or component, lack of updates and regular maintenance, including substantial repairs when necessary, will lead to higher costs at a later time to repair them.



CDCR recently completed an analysis at multiple institutions to assess the condition of the facilities and to determine the appropriate level of investment necessary to maintain them at their optimum levels. The results of this analysis clearly show that the entire portfolio of facilities is woefully underfunded in comparison to other similar building portfolios. This analysis only validated what CDCR has long known – that its infrastructure systems are failing and that there is not enough money to address even the basic and critical needs.

FPCM created the Maintenance Services Branch in 2007 to provide critical oversight to ensure CDCR's facility needs were being identified and prioritized and that remedies were developed on a timely basis and managed throughout implementation. In some cases, this has been as simple as enforcing the requirements of the plant operations personnel to complete prescribed preventative maintenance functions and, in others, identifying appropriate short and long-term projects necessary to sustain and even enhance infrastructure operations, securing funding, implementing them, and monitoring them throughout. This branch has also identified personnel shortfalls in plant operations at each institution in preparation of future funding requests.

Due to recently proposed budget cuts, the ability to sustain even critical infrastructure systems is at risk. This will seriously impact the ability to eliminate sudden failures, diminished operations, and potential problems, such as sewage spills, being experienced by surrounding communities. FPCM views maintenance of its facilities as one of its most critical priorities – if a prison goes down due to an infrastructure failure and stays inoperative for any length of time, CDCR simply does not have the capacity to redirect the population to other sites. Thus, continuing this critical role is essential in sustaining and ultimately, optimizing CDCR operations.

***16. How is the department ensuring that the construction required by AB 900 will not exacerbate infrastructure issues, such as a lack of wastewater capacity? Also, are you utilizing renewable energy sources and other environmentally friendly building standards at prisons? Please describe the work that you do with local surrounding communities to answer possible concerns/questions about proposed construction.***

CDCR's revisions to the original AB 900 plan took into consideration those areas of the State and those prisons that had the capacity to expand critical infrastructure systems like water and wastewater. As a result, several sites were dropped from consideration that may have had critical flaws that would impede expansion and that could not be overcome by increasing on-site capacity in a cost-effective manner. Because the Infill program will be adding capacity to existing prisons, CDCR will incorporate the appropriate changes to the existing systems to ensure that adequate capacity is maintained for the existing and increased population. In addition, the AB 900 legislation provided for a \$300 million General Fund (GF) appropriation to address infrastructure deficiencies throughout the State's network of prisons and CDCR will continue to

leverage this appropriation to ensure overstressed infrastructure systems are being properly addressed.

CDCR is proud to have in place one of the most ambitious energy conservation programs in California State government, which received an award in 2007-08 for Outstanding Achievements in Energy and was recently named by the Climate Registry as the largest State agency engaged in implementing energy conservation measures aimed at reducing greenhouse gas emissions. The Energy and Resource Management Division is housed within FPCM and has recently achieved its target of reducing water conservation by 20 percent statewide in CDCR prisons, an effort partly funded by the AB 900 \$300 million GF appropriation. CDCR purchased and installed water conservation devices, or flushometers, on cell toilets in all of its facilities that control the number of flushes. These devices, in combination with ongoing water surveys and a water-conservation campaign FPCM launched statewide in each prison, have yielded significant results so far. With the statewide drought continuing, CDCR will continue to increase conservation efforts in this important area.

FPCM has completed two large solar farms in the last three years of one megawatt each, or 6,000 solar panels at each site, and has plans for six additional sites in addition to exploring wind generation at two prison locations. It has also completed a multi-million dollar energy retrofit project in partnership with the State's largest utility providers with plans for more. The prisons to be constructed with AB 900 funds will also be built in accordance with LEED criteria and CDCR will continually be reviewing opportunities on all of its renovation projects to construct them with energy and resource conservation as an overriding objective.

### **Budgeting**

*The Fiscal Services Division under your jurisdiction has responsibility for the department's budget. The Legislative Analyst has reported from 1987-88 to 2007-08, corrections spending increased from \$1.7 billion to \$10.1 billion, an average annual increase of 9 percent. By comparison, total General Fund spending has grown at a slower average annual rate of 6 percent. As a consequence, spending on corrections takes up about twice as much of the state budget than it did 20 years ago, increasing from 5 percent to 10 percent of total General Fund spending.*

#### **17. Given current budget restraints, what criteria do you use to prioritize department activities?**

The Secretary has made it clear to all of Cabinet that his expectation is that we will set priorities as a Cabinet based on the vision, mission, values, and goals we have worked to establish over the past seven months. As a result, every time we face an important decision about budget reductions or constraints, the entire Cabinet prepares and reviews alternative options. Where possible, we provide the Secretary with a



recommendation based on our consensus. When it is not possible to reach consensus, we present the Secretary with the various perspectives and anticipated consequences so that he can make an informed decision. In instances where a significant amount of analysis is required, we may delegate to the Chief Deputy Secretaries for discussion and recommendation. The recommendations are usually based on input from all parts of the organization.

In regards to CDCR's budget taking up about twice as much of the state budget than it did 20 years ago, it is important to note that the Department's inmate population has more than doubled over the past 20 years, increasing from 76,171 inmates in 1988 to 171,085 inmates in 2008. Consequently, our budget has also significantly increased.

***18. Is it your responsibility to ensure that funding authorized by the Legislature is used for the intended purpose, such as a new education or treatment program? For example, what role did you play in reallocating funds originally intended for female offender wrap around parole services?***

For the female offender wrap around parole services, the recommendation was made by Cabinet and approved by the Secretary to delay all but one of these projects until next budget year when we will have a better estimate of the female parole population. We have many reforms under consideration which would drastically reduce the female parole population. We did not feel it was fiscally prudent to proceed with these contracts given that parole reforms under consideration for the past year would significantly reduce the need for these beds.

All of the significant budget-related decisions made over the past year were done as part of a collaborative Cabinet effort. At the beginning of the fiscal year, the Secretary made it extremely clear that he expected the Department to come in within our budgeted authority. In addition to an \$80 million unallocated reduction that we received as a result of the Governor's veto message in September, the Department has a structural deficit of approximately \$120 million caused by unfunded overtime, parolee medication, infrastructure repairs, etc. These reductions made it impossible for us to stay within our budgeted authority this fiscal year without deferring spending in some areas. Therefore, every division and office within the Department was asked to identify positions that could be held vacant or contracts that could be delayed in an attempt to reduce overall expenditures.

Additionally, any emergency repair that immediately threatens life and safety, or is required to bring a facility back into operation upon a system failure, must be made as soon as possible. In the event CDCR has to make such a repair, funds must either be immediately identified from within CDCR through redirection or an alternative source if available.



**19. *Is it your responsibility to ensure that wardens are within budget? What happens if a warden's budget is in the red? Is it your job or Undersecretary Kernan's to address this matter?***

The responsibility of ensuring the wardens are within budget lies both with Undersecretary Kernan and myself. As the Undersecretary of Administration, it is my job to monitor the budget for the entire Department to ensure we do not exceed our appropriation, and this includes the institutions. However, the institutions are under the operational control of Undersecretary Kernan and, as such, he controls the decision-making process regarding operations. We review the expenditure data together, usually at a COMPSTAT or fiscal review meeting, identify the drivers of the expenses, and develop plans to prevent the expenditures in the future. We both monitor the situations to ensure the solutions are implemented and the budgets are back in control.

**20. *Please describe how the headquarters staff has grown over the past five years. What was the vacancy percentage five years ago? What is it today?***

There was a significant growth in headquarters' position authority between FYs 2004-05 and 2008-09. Most of the positions were approved by the Legislature in response to budget proposals from the Administration to address critical issues as outlined below: 1) Jessica's Law; 2) HR/Expanding the Academy; 3) Valdivia Court Order; 4) Internal Monitoring and Auditing; 5) Court Compliance; 6) Administrative Infrastructure (IT and Accounting); 7) Out-of-State Transfers and Female Offender Programming; and 8) AB 900 (Construction and Programs).

Recently, due to the current fiscal situation, the Secretary ordered a 10% cut of the 4267 headquarters' positions. This reduction is currently being implemented in conjunction with the CDCR GF layoff ordered by the Governor's Office.

The current CDCR vacancy rate is 6.4 percent; the vacancy rate for CDC in 2005 was 10.3 percent.

**21. *Are positions being redirected from their originally authorized legislative purpose to other activities? Please describe.***

Yes, occasionally positions are redirected from their originally authorized purpose to other activities. This is part of the normal prioritization of workload that has to occur in a department of our size and complexity. It is not our intention to request resources for one purpose and then redirect them to another purpose; however, it does happen, especially in tough budgetary times such as these. If we are to be the most efficient organization possible we will always be examining workload and workload priorities, and address some of the critical issues by redirecting resources, otherwise the Department would annually need to submit hundreds of Budget Change Proposals to address shifting workload.

**22. Please describe how salary savings from vacant positions might be used or redirected.**

Salary savings are used or redirected for many different purposes within CDCR. For example, the Department has run a deficit for the past several years due to unfunded overtime costs. In large part that deficit is funded through vacant positions in other programs. Outside of posted positions which are required to be filled every day, we are only funded to fill 95 percent of our positions, so each organization has to carefully manage its budget to ensure there is enough funding to cover their filled positions. This fiscal year we conducted fiscal reviews with each operation to provide some savings to fund the deficit, which included reviewing salary savings. Excess salary savings were redirected to address the shortfall. Given the increasingly dire revenue situation of the State, we felt it was incumbent on us to address shortfalls internally and not submit a deficit request, if possible.

**Salary Compaction**

*In the past, there have been salary compaction issues with rank and file personnel and supervisor classifications. For a variety of reasons, including compensation for overtime, custody officers sometimes earn higher salaries than the lieutenants and captains to whom they report. As a result, lower ranking officers might make as much as, if not more than, their supervisors. As of March 1, 2007, former Secretary Tilton was finally successful in increasing the pay for management positions.*

**23. What is the status of efforts to address salary compaction in the field and headquarters? Is there still a fair amount of variance among salaries for senior executives? If so, should this variation be addressed and how?**

Recently, DPA excluded salary programs that have attempted to ensure a minimum of a five percent salary variance between rank and file and supervisory custody classifications. Currently, no compaction exists between rank and file and supervisory classes. Human Resources continues to monitor salaries, identify compaction issues, and work with DPA to address areas of concern where, and when, fiscally possible.

CDCR continues to use a pay differential, established in January 2007, to address compaction for senior executive positions. On January 23, 2009, CDCR submitted a request to DPA to continue this differential. Although the request is pending DPA approval, DPA has allowed CDCR to continue its use.

**24. Deputy commissioners at the Board of Parole Hearings earn \$8436 monthly with a 2.5% safety retirement at age 55 and no contribution to Social Security, but Associate Chief Deputy Commissioners who supervise the deputy commissioners earn \$8911 with 2.0% retirement at age 60 and pay**



***about \$500 monthly into Social Security. The Rules Committee was told for some time that this issue would be addressed but DPA recently rejected the proposed fix. What is your responsibility for addressing this specific problem and problems like this? Why would someone promote to Associate Chief Deputy Commissioner given this circumstance?***

My responsibility to address compaction and/or recruitment and retention problems when identified is to ensure that CDCR's HR works with the affected program to develop a solid justification and proposal to submit to DPA for consideration, as DPA has full oversight and approval authority of the State's classification and compensation program. Proposals could include developing new classes, revising existing pay structures, recruitment/retention differentials, etc. I have personally spoken with DPA's Director and Chief Deputy Director regarding this issue; however, in light of the current fiscal situation, it has been difficult to obtain approval on these types of proposals.. I will continue to work with DPA to seek a mutually agreeable solution.

While I will continue to seek a mutually agreeable solution with DPA on the disparity between the retirement systems of the Deputy Commissioners and the Associate Chief Deputy Commissioners (ACDC), each individual's decision to promote to the Associate Chief Deputy Commissioner is their own personal decision. Such a move would result in a 5.6 percent increase in salary which can be used for retirement calculations. ACDC's fall under the industrial retirement category (2.0 percent at 55) which means they will pay into social security and will be entitled to benefits.

### **Personnel and Training**

*The California Highway Patrol Commissioner recently told this committee that he established a new position, titled Assistant Commissioner for Leadership Development, in response to high vacancy rates and other problems. Your office of Training and Professional Development is responsible for training and staff development. CDCR said the Richard McGee Training Facility in Galt falls under your office.*

***25. Who is responsible for leadership development in your organization? Are you satisfied with the quality of leadership and management training available to CDCR employees? Where is improvement needed?***

Secretary Cate is ultimately responsible for leadership development within the organization. Every leader, from cabinet level to line managers and supervisors, is expected to model exemplary leadership practices and challenge each other to seek ways to change, grow, and innovate. Additionally, every manager is required to mentor and develop leadership talents in their staff.

Our HR, Office of Training and Professional Development, is responsible for coordinating CDCR's leadership training program and collaborates with executive level



managers of line programs and affiliated administrative programs, in the development of policy and strategy for our training programs. Our Office of Workforce Planning and Selection is responsible for the Department's Succession Management Planning. Secretary Cate demonstrated his commitment to succession planning by elevating this office to the policy level, dedicating six staff to this function and establishing a CEA to manage it. Our goal is to create an integrated HR System for all of our HR processes (Recruitment, Selection, manager/supervisor training and performance management) based on identified managerial core competencies. This approach will focus on strategic objectives aligned with an integrated competency based HR system to reach organizational priorities. This will enable CDCR to align staffing plans with workforce availability and the critical and evolving needs of our mission. This includes identification of core competencies at all levels; identification of workforce demographics, gaps, changing program requirements, employee development needs and associated solutions (such as a possible management intern program and other necessary classification changes), associated mentoring programs, knowledge transfer programs, and employee retention strategies. The Office of Workforce Planning and Selection's Succession Management Planning Unit works in conjunction with the Office of Training and Professional Development to identify training needed to prepare CDCR's workforce for succession planning efforts (i.e., promotional opportunities, attrition, etc.).

Overall, I am pleased with the quality of the programs we have available to CDCR employees for leadership and management training. We provide two major training courses for management and leadership development; Management Skills Development Program (MSDP) and the Leadership Development Program (LDP) (more detail in the question below). Evaluations completed by participants over the last two years consistently give high ratings to the course material as well as the instructors.

I am satisfied with the quality of our offerings; however, I am not satisfied with the quantity of available classes. Our biggest obstacle to delivering this training to CDCR employees is the lack of dedicated funding for these programs. Consequently, we usually cannot schedule enough classes to meet the development needs of staff who make up our existing management team, nor can we provide sufficient numbers of classes to address the group of middle managers who will eventually be required to step into these leadership positions. I plan to pursue permanent funding for these programs as the fiscal climate improves.

**26. Please describe as specifically as possible the leadership and management training currently available, how frequently it's provided, and how many staff are served? When was the last time each component of the training was delivered and when will the next components be delivered? How will the budget crisis impact training?**

The Department currently offers four leadership/management development courses, as described below.

### Leadership Development Program

The LDP, offered in partnership with the Sonoma Learning Systems, is a program designed for CDCR leaders that enables them to access and develop their leadership skills, integrate leadership theory and practices, and address critical correctional professional issues confronting CDCR. This course includes the Leadership Practices Inventory. Eight sessions of this seven-day course, taught over a three-month period, are scheduled for FY 2009-10 and can facilitate up to 25 staff per offering. Due to budget constraints, two sessions were held in the 2008-09 fiscal year. The last workshop ended April 8, 2009, and the next session is scheduled for August 4, 2009.

### Leadership Challenge Workshop

The Leadership Challenge Workshop (LCW) is an intensive, highly interactive and stimulating program based on the award-winning book, *Leadership Challenge*. The participants are exposed to concrete tools and knowledge necessary for them to be effective leaders, including the Leadership Practices Inventory. This two-day workshop is usually offered 24 times per year and can facilitate up to 24 staff per offering. However, due to budget constraints, the course was not offered in the 2008-09 fiscal year. The last workshop was September 27, 2007 and will resume in August 2009.

### Management Skills Development Program

The Management Skills Development Program is a collaborative effort between CDCR and the California State University, Sacramento, College of Continuing Education. The program is designed to provide managers with 40 hours of management education and 40 hours of skill enhancement education. Courses include: The Proactive Manager, Self-Awareness & Personal Growth, Communication, Conflict Management, Critical Thinking Skills, Building a Collaborative Environment, Change Management, Coaching, Strategic Implementation, Measuring Performance Results and Real-World Application. Ten sessions of this two-week course are scheduled for FY 2009-10 and can facilitate up to 25 staff per offering. Due to budget constraints, one session was held in the 2008/09 fiscal year. The last workshop ended February 6, 2009, and the next session is scheduled for August 17, 2009.

### California Public Safety Leadership and Ethics

This widely-honored and recognized program utilizes the Phi Theta Kappa International Honor Society Leadership Development Program® as a foundational component. The program is designed to create exceptional leadership throughout public safety organizations with a design that has individuals develop critical thinking skills through increasingly complex learning experiences. Two sessions of this four-week course are scheduled for FY 2009-10 and can facilitate up to 20 staff per offering. Due to budget



constraints, the course was not offered in FY 2008-09. The last workshop was held May 9, 2008, and the next session is scheduled for August 24, 2009.

As stated above, our biggest obstacle to delivering this training is the lack of dedicated funding for these programs. While funding is currently available for FY 2009-10, the budget crisis may impede our ability to offer all planned sessions. As the fiscal climate improves, I plan to pursue permanent funding for these programs to ensure our leaders receive the training needed to be effective leaders.

***27. Who is responsible for following up on ethics training in general and determining whether it is adequate?***

CDCR provides two forms of ethics training. One is the Ethics Orientation for State Officials which is required by Government Code Section 11146-11146.1. CDCR uses the interactive on-line program provided by the Office of the Attorney General. The training coordinator within the specific division, program, or institution follows up with staff who are required to take the training as part of the annual Form 700 filers process.

We also provide ethics training as part of several of our ongoing classes, including:

- New Employee Orientation
- Adult Correctional Officer Academy (a 40-hour module on ethics)
- Basic Supervision
- California Public Safety Leadership and Ethics (CPSLE) - CPSLE is a unique leadership course developed with input from the public safety sector that focuses on developing a personal philosophy of leadership, leading others, organizational leadership, ethics, and the challenge of leadership.
- Annual Peace Officer training as published in the Off-Post Training Schedule. We include a refresher course via an on-the-job training module.

As with all our training programs, we have participant evaluations that are carefully reviewed by a team of evaluation specialists and Department stakeholders to determine whether any improvement in subject matter or delivery are needed. Corresponding course or curriculum improvements are submitted to HR for approval and then implemented in the respective courses.

***28. Who is responsible for following up on the 360° assessments described by Matt Cate in his confirmation hearing? When an employee who wants to promote is told what additional training he or she needs, whose job is it to see that it's provided?***

A component of CDCR's Succession Management Plan (SMP) is to conduct assessments of employees participating in the succession program to evaluate them on their readiness to succeed to the next level in their promotional path. Based on the results of the 360° Assessment, the SMP Unit will identify areas of development that are



required in order for the employee to succeed at the next level within CDCR. The SMP Unit will assist the employee and his/her manager to create a development plan. It is the joint responsibility of the employee and his/her manager to ensure the employee completes the training and development needed. In order to ensure the management and leadership training meets the needs of CDCR, performance measures have been developed to track identified development of employees.

***29. Prison business managers typically come up through the ranks. They report to the associate warden for Business Services. What sort of training is provided to these executives who become responsible for managing hundreds of millions of dollars in public funds.***

CDCR does not currently have a specific training program designed for Correctional Business Managers (CBM). The training they receive is primarily on-the-job training at the local institution under the direction of the local associate warden. These individuals are also eligible to attend the CDCR Management Skills Development Program and the Leadership Development Program.

While CDCR does not have a formal training program for CBMs, the recruitment materials specifically state that experience with the various functions is needed to take the exam. This includes functions they are responsible for, such as budgets, personnel, contracts, plant operations, etc.

There are also several support/consultant resources available in headquarters to advise them, including the Business Manager in each of the mission offices in headquarters, as well as the technical staff in Budgets, Personnel, Contracts, etc. Additionally, personnel from the Budget Management Branch work closely with their counterparts in institutions. This fiscal year for example, each institution has been visited by their budget analyst to work on position reconciliation. We are committed to headquarters' budget staff becoming a part of the team and working closely with institutional staff to ensure better cooperation and understanding. In the past, the Office of Fiscal Services has also held fiscal services seminars where budget and accounting staff provide training on new fiscal systems and procedures so that there is full understanding of fiscal processes. We are committed to developing and providing a robust training process to ensure that all staff in institutions as well as headquarters are provided both formalized and on-the-job training.

***30. In part because of a failure in leadership, CDCR medical is now under a federal receivership. Assuming this charge will eventually come back to CDCR, what are you doing in terms of preparation for taking inmate medical care back from the federal courts?***

My primary focus is in the Receiver's administrative programs. Since my appointment, I have been working collaboratively with the Receiver's administrative staff regarding

many issues that overlap. In addition, both entities have been working together in the implementation of BIS and in the SOMS procurement. Now that we are close to signing a Memorandum of Understanding, the Receiver's staff and my staff are collaborating in many more areas. Weekly meetings are held with various program directors and the executive team has scheduled monthly meetings to coordinate activities. I am working with the Receiver's staff to ensure policies currently in development are either identical, or at least, do not conflict with each other. A good example is, we have been working together to develop mutually agreed upon alternative solutions to information technology purchases the Receiver was considering which are not compatible with CDCR's overall enterprise architecture.

***31. How many new officers were trained in 2008, and how many do you expect to enter and complete the academy in 2009? Previously, there were efforts to set up permanent training facilities in Southern California and at community colleges. What is the status?***

In FY 2008-09, 1,230 new correctional officers graduated from the academies: 1,093 Adult; 27 Juvenile, and 110 Parole. Due to the fiscal crises and potential layoffs only 160 graduates are currently planned for the Adult Correctional Officer Academy in FY 2009-10 and no specific total number of graduates for parole or juvenile have been planned at this time.

With regard to the Southern training facility and agreements with community colleges, these options were being explored when the Department's entry level peace officer needs exceeded existing capacity for academy training. Due to the current economic situation and the decline in the need for hiring new entry level peace officers, the Southern California academy was postponed and correspondingly, no agreements with community colleges have been pursued.

The community colleges could not generate the cadet numbers without CDCR underwriting the cost. Additionally, the colleges could not teach approximately 50 to 60 percent of our curriculum because of the Department-specific nature of the content and costs of our tactical, impact, firearms, and chemical agents. Given the projected low number of cadets to be trained in the foreseeable future, there are no plans to pursue community college academies.

**Research**

*In 2007 Mr. Tilton said the Office of Research plays a major role in the department's vision for making evidence-based rehabilitation a major part of the mission at CDCR. At the time of the CDCR reorganization, it was widely recognized that CDCR lacked research capability. The reorganization established an Office of Research to address this weakness, increasing the 6 existing staff to 21, and adding a new Assistant Secretary of Research. In the department's official job description, you are responsible*

*for overseeing research. However, on the department's organizational chart, the Assistant Secretary for Research reports to the Secretary's senior policy advisor.*

***32. Have you considered contracting with a major public university to oversee all research for the department? What would be the pluses and minuses?***

I understand that several years ago when the Department was discussing the need to reestablish a viable Office of Research, there was significant discussion about contracting out for these services with a major public university. Ultimately, however, it was decided that the most critical gap in terms of effective research was the internal capacity to collect quality data. Most of the positions that have been established would still be needed to identify data sources, determine the quality of data, and develop the methodology to gather the data for external researchers. Therefore, it would be an additional expense to add an external layer.

However, while we currently do not contract out all of our research services, the Department does use contracts with public universities, i.e., the University of California at Irvine (UCI) and Davis (UCD) along with several of the California State University campuses to maximize our resource and enhance capacity. For example, UCD is currently conducting research projects on wraparound services to adult offenders, recidivism rates, and a follow-up study on "Enhancing Prison Treatment of Women." UCI previously researched and provided evaluation of our parole violations decision making instrument, prepared the California Static Risk Assessment Report, and provided analysis of violation and adult parolee risks.





California Natural Resources Agency  
DEPARTMENT OF FISH AND GAME  
Office of Spill Prevention and Response  
1700 K. Street, Ste 250  
Sacramento, California 95811  
Telephone: (916) 445-9338  
[www.dfg.ca.gov](http://www.dfg.ca.gov)

ARNOLD SCHWARZENEGGER, Governor  
DONALD KOCH, Director



Stephen Edinger  
Responses

June 9, 2009

The Honorable Darrell Steinberg, Chair  
Attn: Nettie Sabelhaus, Appointments Director  
Senate Rules Committee  
State Capitol, Room 420  
Sacramento, CA 95814

Dear Senator Steinberg:

Thank you for the opportunity to address your questions and to share with you my goals as administrator for the Department of Fish and Game, Office of Spill Prevention and Response (OSPR). It is an honor to have been chosen by Governor Arnold Schwarzenegger to serve OSPR in the protection of California's natural resources. I bring to this job an understanding of both OSPR and the Department of Fish and Game. My 28 years experience in wildlife law enforcement with state and federal agencies gives me a unique perspective of the importance of protecting our natural treasures. I truly understand the magnitude of responsibility that accompanies this position and am grateful for the opportunity should the Senate choose to confirm me.

### **Statement of Goals**

1. *What do you hope to accomplish during your tenure as administrator of OSPR?*

The Office of Spill Prevention and Response (OSPR) is the premiere spill prevention and response organization in the nation. During my tenure as administrator, I will continue our work with state, federal, local and industry partners as well as the environmental community to ensure the highest standards in environmental protection for California's natural resources. My goals as administrator include increasing coordination with local governments; improving wildlife response; improving timeliness and quality of public outreach; evaluating best achievable technologies for spill prevention and response; and enhancing staff readiness for spill response.

Currently, OSPR is working to implement new techniques and response mechanisms that came out of the M/V Cosco Busan oil spill.

*Conserving California's Wildlife Since 1870*

External and internal reviews of our response identified the need for enhanced efforts by OSPR to increase local government and volunteer participation, address fisheries closures, shorten response times, increase wildlife recovery efforts, and increase drill participation and oversight. OSPR is working hard to make these improvements. I will provide leadership and guidance to OSPR while implementing these positive and important changes to our response mechanisms.

### **Inland Pollution Program**

In 2007 Ms. Curtis, the previous administrator, told the Senate Rules Committee that 85 percent of spills the office responded to were in the inland areas, and many were chemical and pesticide spills. At that time, she said that statutory authority was needed for the inland program, and she also wanted the ability to assess certain fines and penalties. She indicated that additional staff was also needed. The Legislature passed a bill, AB 2911 (Wolk), Chapter 565, Statutes of 2008, that extends the office's ability to oversee cleanup of inland spills and impose penalties similar to those of marine spills.

2. *Did the recent legislation, AB 2911, provide your office with sufficient authority to effectively deal with inland spills? Are chemical and pesticide spills adequately addressed?*

AB 2911 (Wolk), Chapter 565, Statutes of 2008 gave us three important new authorities in addressing inland oil spills including: clear response and command authority, cost recovery authority, and the ability to levy administrative civil penalties for intentional or negligent acts. In implementing our new authorities, OSPR is collating data, including chemical and pesticide spills, in our Incident Tracking Database. The collection of this data will allow us to evaluate workload and trends to help us better define our future needs. We anticipate completing this analysis on workload, including funding and staffing gaps, for inland spill response in late FY 10/11. The results of this analysis will be presented to Administration officials for the planning of OSPR's future needs. Additionally, OSPR has promulgated regulations to implement administrative civil penalties for inland oil spills. These regulations will be effective June 13.

3. *What additional authority do you believe your office needs to effectively deal with inland or marine spills?*

OSPR is a part of the Department of Fish and Game (Department). I believe the Department and OSPR have the necessary authority to address marine and inland oil spills. Director Koch and I are not seeking any additional authority.

### **Succession Planning in the Office of Oil Spill Prevention and Response**

Many state agencies have realized that a significant number of middle and senior management personnel already have or will soon become eligible for retirement. In a letter to the Rules Committee last year, Ms. Curtis said that 61 percent of the middle and senior management staff of your office are or will be eligible for retirement within five years.

4. *Does your office have a succession plan in place? If so, please describe the major points of that plan.*

Succession planning is addressed in the Department's *Leadership Development and Succession Plan* that was published in October 2007. This plan delineates a succession planning program that ensures leadership continuity in key positions through employee recruitment, training, job rotation, job shadowing, mentoring, and close collaboration between employees and their supervisors and managers. The plan lays out strategies to meet the following goals:

- Promote core leadership competencies;
- Provide traditional training and development opportunities to enable employees to acquire the competencies necessary to fill leadership positions;
- Encouragement by managers and supervisors for employees to explore non-traditional training and development opportunities;
- Expand the Department's recruitment and retention efforts;
- Provide employees, managers, and supervisors with an employee development toolkit; and
- Encourage employee career development toward core competencies through the use of Individual Development Plans.

In addition, the Department has an established Upward Mobility Program designed to assist employees in entry level occupations to achieve their highest career potential. This program assists us in our efforts to maintain a well-qualified, diverse workforce by increasing the number of individuals available to hire into entry, technical, professional, and administrative positions.

At OSPR, specifically over the past few years, we have weathered the loss of key long-term employees. As an organization built upon leadership and ownership, we pride ourselves on a program that allows and encourages continuous development to prepare our employees to assume leadership roles during normal operations as well as during spill emergencies. I have found this approach prepares staff to fill supervisory and management roles within OSPR as positions become vacant.



### **Cosco Busan Oil Spill and Response**

On November 6, 2007, the merchant vessel Cosco Busan sideswiped a tower of the San Francisco Bay Bridge and spilled over 53,000 gallons of bunker fuel into the bay. A Coast Guard report on the incident outlined the bad luck and human error that caused confusion and misinformation. The spill blackened 69 miles of shoreline and killed more than 1,600 birds from Oakland to San Francisco, and along beaches from Marin to San Mateo counties.

An official from your office who specialized in measuring the size of oil spills was within one mile of the spill, but could not get to the damaged ship for two hours and twenty minutes because there was no boat to take him.

The Coast Guard report also recommended that:

- OSPR determine what technologies or operational methods are available and should be incorporated into contingency plans, using best available technology and best available protection;
  - the California Wildlife Response Plan be revised and OSPR should consider developing an inventory of equipment that is pre-deployed and available for dedicated use in wildlife response;
  - information flow to the media and public regarding an oil spill and the response be improved;
  - the use of "scripted responses" to certain scenarios be explored;
  - reconnaissance teams should include trained OSPR personnel with local knowledge.
5. *Would you please discuss the actions your office has taken in response to the Cosco Busan oil spill and the Coast Guard's Incident Specific Preparedness Review? What recommendations made by the Coast Guard's report have your office adopted?*

The M/V Cosco Busan spill response by OSPR, federal, state, local government and private contractors was immediate and aggressive. Within 90 minutes of the incident, the oil spill response organizations on-scene recovery capability of 1.5 million gallons. The total on-water recovery capability on scene within six hours was more than 2.4 million gallons.

OSPR's oil recovery and cleanup operations in and around the San Francisco Bay continued for months following the accident. Recovery rates of oil well exceeded industry norms. Forty three percent (43%) of the oil spilled into the bay was recovered. By comparison, on July 23, 2008, a collision between a barge and tanker resulted in 250,000 gallons of fuel oil discharged into the Mississippi River near downtown New Orleans. This spill resulted in the closure of river traffic and disruption of commerce for weeks. Less than 12 percent of the fuel oil was recovered.

In response to the spill, Governor Schwarzenegger took immediate action, launching a full state investigation into the causes of and response to the spill. That investigation led to adoption of new guidance in the San Francisco Harbor Safety Plan for mariners operating in reduced visibility in the San Francisco Bay. It also led to increased local assistance funding by OSPR for local government response training and equipment. OSPR funded \$650,000 in grants for local government. Additionally, OSPR funded improvements in the Physical Oceanographic Real Time System (PORTS), a real time system that measures water levels, tide, current, salinity, and meteorological data for the channels, harbors and bays. These improvements support safe navigation, spill response, search and rescue operations in the San Francisco Bay.

In addition, the Governor called upon lawmakers to examine possible policy changes to prevent oil spills from occurring in the future. The Administration worked closely with the Legislature to enact comprehensive legislation to improve California's inland and marine oil spill prevention and response activities.

In the year and a half since the Cosco Busan oil spill, OSPR has proactively addressed issues identified through internal and external reviews, such as the Coast Guard's Incident Specific Preparedness Review (ISPR) and the National Transportation Safety Board investigations.

Highlights of actions we have undertaken include:

- Promulgated regulations to reduce response times from 6 to 4 hours in high-volume ports (San Francisco Bay and Los Angeles/Long Beach), effective July 1, 2009;
- Promulgated regulations to require containment boom deployment within 2 hours near identified oil pollution risk areas in high-volume ports, effective July 1, 2009;
- Following participation in the Area Committees in California, reviewed and incorporated ISPR recommendations into Area Contingency Plans;
- Created a decision matrix tool for prioritization of protection of environmentally sensitive sites, and incorporated this tool into revised Area Contingency Plans;
- Increased involvement of local government by assisting in the development of local contingency plans, and providing spill response training and equipment grants. In addition, amended the San Francisco Area Contingency Plan to provide for local government representation in the Unified Command.
- Expanded and improved wildlife recovery and transport protocols through the development and delivery of wildlife response training to volunteers, thereby increasing the pool of available wildlife responders. Increased Oiled Wildlife Care Network staffing to support expanded volunteer capabilities. In addition, we revised the California Wildlife Response Plan;



- Began developing a spill specific website designed to address questions and the information needs of the public, including information on events, news updates, and volunteer and wildlife information. The site will be accessible by October 1, 2009;
- Initiated a review of the best achievable technology for spill prevention and response. Utilizing experts from OSPR, industry, government, and non-government organizations, OSPR will issue a comprehensive report by the end of 2009;
- In response to passage of AB 2935 (Chapter 564, Statutes of 2008), the Department, in consultation with the Office of Environmental Health Hazard Assessment, developed a detailed protocol for closing fisheries during marine oil spills;
- Doubled OSPR's participation in industry drills since the Cosco Busan incident;
- Developed standard spill quantification protocols to provide consistency in calculating spill volumes during responses; and
- Purchased and pre-positioned a new all-weather response vessel on the San Francisco Bay capable of transporting personnel -- even during periods of low visibility.

#### **Oil Spill Prevention and Response Fund**

Several years ago, the Department of Finance reported that the balance in the Oil Spill Prevention and Response Fund was \$40 million. When the former administrator appeared before the Senate Rules Committee, the balance was down to \$15 million.

6. *What is your assessment of the sustainability of the Oil Spill Prevention and Response Fund?*

As OSPR Administrator I am responsible for two distinctly different funds: the Oil Spill Response Trust Fund (OSRTF) and the Oil Spill Prevention and Administration Fund (OSPAF). The OSRTF funds response activities during an oil spill while the OSPAf funds normal staff activities, including prevention and readiness absent a response.

The OSRTF is adequate and stable with a statutorily mandated balance of \$54 million. Expenditures from the OSRTF have been adequately reimbursed from the responsible parties and the federal Oil Spill Liability Trust Fund.

A review of OSPAf fund condition statements does not reflect a \$40 million fund balance as stated in the question. From FY 05/06 to the current year, expenditures charged to the OSPAf have risen dramatically. For example, OSPAf funding for the State Lands Commission has increased by over \$3 million dollars per year for the Marine Oil Terminal Engineering and Maintenance Standards Program and the



Offshore Platform Safety Program. The OSPAF's support for local assistance activities has also increased by more than \$1.2 million as a result of the PORTS system and other improvements supported by Governor Schwarzenegger in the aftermath of the Cosco Busan. Finally, as a result of the enactment of AB 2935, the OSPAF also now funds the Office of Environmental Health Hazard Assessment at \$125,000 to support new fishery closure mandates.

The projected FY 08/09 year-end balance is \$11 million dollars. In FY 06/07 revenues and expenditures were in alignment. With the identification of prudent and responsible spending adjustments the OSPAF is projected to have a positive balance at the end of FY 10/11.

7. *What revenue enhancements or spending reductions would you recommend, if any?*

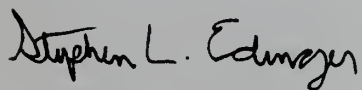
Existing OSPAF revenues combined with specific spending reductions are sufficient to finance core activities funded by OSPAF. OSPR receives revenues from a per-barrel-fee on imported oil and a non-tank vessel fee. Increasing these fees at this time would have a negative impact on California's consumers, who would ultimately have to shoulder these increased costs. Rather, OSPR recognizes the need to reduce spending during this economic downturn without compromising its critical responsibilities to serve as both the state's major pollution response authority and public trustee authority for wildlife and habitat.

As such, with a goal of ensuring and maintaining a prudent reserve in the OSPAF by the end of FY 10/11, OSPR is currently actively engaged in identifying and implementing prudent and responsible spending reductions while ensuring that we continue to meet our core mission to provide the best achievable protection of California's natural resources.

In conclusion, as reflected in my responses, I understand the serious challenges faced by OSPR and have undertaken ambitious initiatives to improve our organization. I do not take these issues lightly, but again am absolutely confident that OSPR will be successful in meeting our goals and being as prepared as possible for any challenges the future holds.

Also, enclosed you will find my updated Form 700, Statement of Economic Interest.

Sincerely,

  
Stephen L. Edinger

The Honorable Darrell Steinberg  
June 9, 2009  
Page 8 of 8

cc: Hon. Sam Aanestad  
Hon. Gilbert Cedillo  
Hon. Robert Dutton  
Hon. Jenny Oropeza

Enclosure

Responses from Frances Spivy-Weber to Senate Rules Committee Questions  
Regarding State Water Resources Control Board, 6/29/09

Statement of Goals:

1a. Since March 2007, my most significant accomplishment as a member of the board has been to help the Board and staff begin to take a leadership role in improving and protecting water quality by integrating water quality and local water supply policies and programs. My focus is on water recycling policy, water conservation, and urban stormwater and dry weather runoff use/reuse. These are now included in the State Water Board's strategic plan and Bay-Delta plan, both adopted in 2008; AB32 water/energy implementation measures, adopted by the Air Board December 2007, and directly in the Water Board's water recycling policy, adopted February 2009.

I have demonstrated leadership in fostering successful interagency collaboration on water-related climate issues, particularly mitigation and to a lesser extent adaptation, and on water conservation actions to meet a statewide 20% reduction of water use by 2020 goal. The latter is still a work in progress.

As the only Southern California member of the Water Board, I am regularly available to the many and varied stakeholders in the region, discussing upcoming policies, providing advice and guidance on how to work with the Water Board, and on special occasions providing funding for high priority water quality projects. I also keep three Regional Boards—Los Angeles, San Diego, and the Central Coast—up-to-date on State Board policies and activities.

I am most proud of the Board's new emphasis on making sure low income urban and rural communities receive a fair chance to benefit from water quality funding, though all the Board members should get credit for developing and implementing the policy.

1b. Over the next 3 ½ years, I want to see measurable water quality improvements and water supply enhancements associated with the local water quality/water supply planning and policy efforts of the Board. To do this, there will have to be a marked improvement in water supply and water quality data collection; clearer criteria for determining the water quality value of water supply actions; and a will on the part of the Water Board to enforce its policy to control waste and unreasonable use of water.

By the end of my tenure, I expect to have played an important role in developing a new Bay-Delta Water Quality Plan. My measure of success will be a plan with strong protections for the environment, greater operations transparency, more flexibility for wildlife and water managers to balance flows to meet competing beneficial uses and to adapt to climate-related changes in water supply and water quality, and a prominent place for water recycling, water conservation, and

Senate Rules Committee



stormwater use as replacement supplies for urban and agricultural users as well as flows for fish and recreation. In 2010, the Board should adopt flow standards for the San Joaquin and salinity standards for the South Delta.

By January 2011 or before, water/energy climate measures will begin to be implemented, and by then the State should have in place a web-based, easy to use method for collecting statewide and regional water use data by source—imported, recycled, stormwater, ocean desalination, groundwater—and the related energy embedded in that water use.

2. State recycled water goals are ambitious, but not impossible to achieve. Key elements to reaching these goals include the following: regional planning with stakeholders to determine where water recycling will work best; improved regional monitoring; implementation of guidance from the Board's Blue Ribbon Task Force on constituents of emerging concern; management of recycled water in conjunction with stormwater capture and use; and joint programs with the Department of Public Health to ensure strong public confidence in water quality as recycled water use increases.

It took much longer than I expected to adopt the Board's recycled water policy. Recycled water purveyors did not see the need for strict controls from Regional Boards who had very little practical experience with recycled water and water quality advocates did not want to see Clean Water Act safeguards weakened to make it easier to use recycled water. When a group of stakeholders offered to try to bridge this divide, the Board decided that a delay was worth the multiple benefits that would come from a policy that had broad support, and while the Board later added important components, we used over 90% of what the stakeholders delivered. The key to the success of this approach was strong stakeholder desire to have a statewide policy, the positive experience with recycled water of one environmental stakeholder, and recognition by purveyors that greater trust had to be built with environmental advocates.

3. As the co-Chair of the Water Energy Team of the Climate Action Team (WET CAT), the Board has secured support from multiple state agencies and stakeholders for the six climate measures in the AB32 scoping document. The Board is the lead on two measures that are also important in adaptation to climate change: recycled water and urban water reuse. In addition, Board staff co-chair the water conservation initiative to reduce potable water use 20% by 2020, which is also a mitigation and adaptation climate measure.

As part of its strategic plan, the State Board is developing a guide for Regional Boards on ways to incorporate climate change considerations into its water quality and water rights work. The State and Regional Board roundtables that meet several times each year are identifying specific recommendations for permitting and monitoring requirements that will need to change. At the same time, Board staff serves on the State Water Plan steering committee, where climate change is beginning to be incorporated into statewide long term planning.

The Water Board is one of five agencies supporting the development of a National Academy of Science study on sea level rise, as part of the State's adaptation response to climate change. We have committed to Resources, the lead on the State's adaptation planning, to develop the water quality and water rights elements, using our work with the Regional Boards.

While I have heard criticisms of the Board getting diverted by climate change from its real mission of improving water quality, my response is that climate change is not only the central in the near and longer term to achieving water quality and appropriately allocating water rights, but the uncertainty of climate change threats also offers opportunities to re-shape these regulatory programs to do a better job.

4. The Board's Recycled Water Policy lay the foundation for the Southern California Coastal Water Research project (SCCWRP) recent selection of a Blue Ribbon Expert Advisory Panel of six scientists with six specialties in constituents of emerging concern (CECs). The panel will hold its first meeting in September and will produce a report by the middle of next year, answering key environmental and human health questions about what to monitor, levels of treatment needed, indicators for suites of chemicals of concern, and triggers for monitoring and more aggressive protection responses.

Several Regional Boards and local/regional academic groups have done studies on CECs and have begun to develop policy recommendations for managing CECs. The State Board's Blue Ribbon Panel is expected to help the Boards and the Department of Public Health establish a statewide CEC policy to focus future monitoring, research, and regulatory actions that are consistent and protective of the public.

5. I had high hopes for the array of agencies and stakeholders responsible for various aspects of ocean and coastal species and water quality protection developing and implementing joint programs through the Ocean Protection Council. While this has occurred, there are barriers. The State and coastal Regional Boards have a lot to offer. They invest significant resources in beach protection, ocean/coastal water quality monitoring, and the State enforces Ocean Plan rules governing Areas of Special Biological Significance (ASBS).

The Council's governance structure, while envisioned to have a strong steering committee of ocean, coastal agencies, never developed that committee, and instead relied primarily on quarterly meetings and stakeholder non-binding resolutions to guide cooperative actions. This resulted in making the Boards simply another stakeholder among many, with no real mechanism or incentive for extra collaboration. In addition, much of the Council's actions are in re-granting bond funds to projects and studies, and, while helpful to some Board priorities, does not seem to be a unique value added. I have not given up, and we are



active participants in OPC meetings and contribute to the agenda, but the hill is steeper than I thought it would be.

We are very active in the Ocean Science Trust, which provides science support to the OPC and with other science research organizations. We also work closely with the Department of Public Health on beach water quality monitoring. This year we also provided additional funding for DPH to do this job.

Once Through Cooling is an extremely controversial issue, and Jon Bishop and his ocean staff have used this controversy to engage a working group of state energy agencies to advise us on how to protect the State's energy grid, while the Board addresses the need to reduce ocean wildlife impacts from coastal power plants. By most reports, the on-going collaboration is successful, and the Board's once-through-cooling policy will be out for public comment very soon.

The State Water Board has also been represented on the Marine Life Protection Act (MLPA) Master Plan Science Advisory Team and is currently assisting the MLPA effort in the South Coast Study Region.

6. Ideally, the State Water Board would have policies to guide all regional permitting, but that is not the case. Since my letter to Rules in August 2007, the State Board has adopted the Water Recycling Policy, a Compliance Schedule Policy for National Pollution Discharge Elimination System (NPDES) permits, and an Enforcement Policy governing Supplemental Environmental Projects. This year we expect to adopt a Once-Through-Cooling policy, a General Permit for Landscape Irrigation Uses of Municipal Recycled Water, the balance of the Enforcement Policy, and the General Stormwater Permit for Construction and Long Linear projects. The trend is good; the list of policies to be tackled is long.

The State Board has just entered into an agreement with USEPA to develop options for a statewide trash Total Maximum Daily Loads (TMDL), based on the Los Angeles Water Board's trash TMDL. If this is successful, we will move to other permit templates that can be used statewide, such as one for hydro modification in Phase II Small Municipal Storm Sewer System (MS4) permits. Again, the trend is good, but it will take commitment over a number of years.

There has been some progress in developing stronger relationships with the regional boards, but at the end of the day, there are nine Regional Board staffs that answer to their own, independent local Boards, and the carrots and sticks for promoting statewide consistency are limited. There is great diversity among the Boards, too. A few are quite large and extremely busy; others are less so. This makes fairness issues, such as budget cuts, among the Boards challenging.

Currently I attend three regional board meetings monthly—Los Angeles, San Diego, and the Central Coast. With Chair Charlie Hoppin and Executive Director, Dorothy Rice, I meet monthly by phone with all of the Regional Board chairs to



discuss broad issues of common concern, such as budgets; and I have been active in planning and participating in biannual meetings of Regional and State Board staff. At the same time, Dorothy and Jonathan Bishop meet with each of the Board Executive officers by phone monthly and are going biannually to each of the Regional offices for meetings with more staff on high priority issues, such as performance-based measurements. These are important activities, but the Water Board structure was not designed to make it easy to have a tightly coordinated body of Boards.

7. The public is most interested in knowing if their water is safe to drink; to swim in; can the fish caught in a lake be eaten. As we pursue measurement of performance-based objectives, we are also asking those who report on data to provide it in a way that makes sense to people. Just recently, we released an early assessment of all the lakes in the State, which analyzed mercury and PCBs in the fish. This information is now in a searchable data base that will let the public know the safety of the fish as a source of food. Can it be eaten once a day, once a week, once a month? We also have a new online map of ASBS and their status. There will be more roll-outs of similar data bases over the next year, and this will not only help us focus on those water bodies and groundwater basins where important actions need to be taken, but will also help enlist a more informed public to join in projects and programs to improve the water quality of their community.

A major success story since I was last before you was the discovery through tracking of measurable objectives that Mandatory Minimum Penalties (MMPs) were not being issued in a timely way by many of the Regional Boards. The State Board then approached each Region with three choices: issue the penalties, let the State Board issue the penalties, or share responsibilities for issuing penalties. All of the Boards responded, and as of March, fewer than 7% of the outstanding violations subject to MMPs remain to be addressed. Now we are focusing on Waste Discharge Requirement inspections and enforcement.

This year there are two new initiatives: the release of the Water Boards' First Annual Performance Report and a statewide information/database on water quality and ecosystem monitoring and assessment. The Report will be on our website in September, but its greatest contribution at this point is to make clear where we are unable to track and measure the effectiveness of our regulatory and technical/financial assistance program. The water quality database will also be ready shortly and currently has a preview portal:

[http://www.waterboards.ca.gov/water\\_issues/programs/monitoring\\_council/docs/swim\\_portal\\_mockup.pdf](http://www.waterboards.ca.gov/water_issues/programs/monitoring_council/docs/swim_portal_mockup.pdf).

8. One high profile element of the State Board's enforcement policy, the use of Supplemental Environmental Projects (SEPs) was adopted in February, 2008. The remainder of the policy, which features a new, detailed penalty calculation methodology, needed more testing by the various regions and stakeholders than

we anticipated. As you can imagine, when every region has a different yardstick, developing a uniform approach creates major concerns. We have had several workshops and the resulting changes in the approach were worth the delay. Now the policy will be brought to the Board by October, and given the amount of public discussion and response to concerns, I expect it will be acted on promptly.

Having Jonathan Bishop, former Executive Officer of the Los Angeles Regional Board, on staff has led to many of the items discussed above, including state policy development, collaboration with the energy agencies on once-through-cooling, meetings with regional boards on mandatory minimum penalties and now on waste discharge requirements, the current effort to develop a trash TMDL template for all regions, and statewide performance measures for the State and Regional Water Boards. Jonathan has been an important catalyst for two trends: strengthening the State's policy leadership and recognizing and drawing on the expertise that has developed on various issues at the Regional level. What both Jonathan and I have learned in the last two years is that there is much more public process at the State Board, as compared with the Regions, and few changes can be made done quickly.

10. In July 2008, the State Board adopted a Bay Delta strategic work plan, which includes actions that will be taken by the Central Valley and the San Francisco Regional Boards. The purpose of this plan, in addition to guiding our staff, is to alert the legislature and stakeholders to what we are mandated by law to do, what additional actions we will take, and our timeline. We are currently on track with that plan.

There are multiple venues of agencies and stakeholders working on ways to improve the environmental conditions in the Delta and to make water deliveries to agricultural and urban users more reliable. The Water Board was asked to appear before the Bay-Delta Blue Ribbon Task Force twice; and we were very active in the Secretaries' follow-up, which created a set of recommendations based on the Task Force report that was given to the legislature and the governor at the end of 2008. State Board staff attends the meetings of the Bay Delta Conservation Plan (BDCP), and we are expecting the BDCP, as part of its NEPA/CEQA review, to provide some of the information we need to revise the Bay-Delta Plan. The Department of Water Resources will also be providing additional information and help with data runs.

The Water Board is currently reviewing flow standards for the San Joaquin River and southern Delta salinity standards for the protection of agriculture. These two reviews rely on Federal and state agency information and expertise, as well as that from water districts and non-governmental organizations. Neither of these issues were at the forefront of the Bay Delta Blue Ribbon Task Force, nor are they the focus of the BDCP, yet flow in the San Joaquin and salinity standards for agriculture in the South Delta will be an extremely important building block for future Bay Delta standards.



In July the State Water Board will consider adoption of a periodic review of the Bay-Delta Plan, which will include Delta Outflow objectives, Export/Inflow objectives, Delta Cross Channel Gate Closure objectives, Suisun Marsh objectives, Floodplain Habitat Flow objectives, and changes to the Monitoring and Special Studies Program. Assuming the period review is adopted, staff will then begin to gather the information necessary from all parties to launch the public outreach on the Bay-Delta Plan in the first half of 2010.

In another related effort, documented in the our Bay Delta Strategic Plan, we are working this year with other Federal and State agencies and stakeholders to gather water use data in a more comprehensive, integrated way. The Recycled Water Policy and the 20x2020 initiative, as well as policies and pilot programs to increase the capture and use of stormwater and dry weather runoff, will be a part of the data base and will give state and regional planners a clearer picture of how water is used and what are the options to meet the needs of vulnerable wildlife, larger urban populations, and a sustainable agricultural economy, while building the buffers that will be necessary as climate change affects current precipitation patterns.

In the long term, the Delta should be managed for change. There must be beneficial use standards set and upheld, and the Water Board is charged with setting and enforcing those standards. I think the new standards, however, will look quite different from those in place today. The goals must be clear, but it is inevitable there will be important day-to-day water management decisions that cannot be envisioned by the Water Board in a rule book. I also hope water efficiency and alternative sources of water, such as recycled water and flood/stormwater, will be a central part of the supply picture; and a great deal more monitoring will be needed to guide management decision-making and water allocations. The Water Board's enforcement role must be made more credible with more water rights enforcement staff, but also with a more streamlined approach to allocating and managing water rights.

11. The Bay Delta Water Quality Control Plan, which is under the State Board's jurisdiction, focuses on flow and salinity. Other water quality issues are addressed through Region 5 and Region 2's basin plans and related permitting activities, and the State Board is often the appellate judges for stakeholders who do not agree with Regional Board actions. The Board is also a source of funding for regional projects of statewide significance. Recently the State Board has acted on several appeals of NPDES permits issued by the Central Valley Regional Board. Typically, some elements of these permits are remanded back to the Regional Board and some elements are accepted by the Board. The outcome, however, of improved regional water quality remains elusive in this approach. I think the State and Regional Water Boards must focus on negative and positive incentives for stakeholders to work together to update basin plans and work together to identify and pursue local, regional, and inter-regional



solutions. This has begun to happen in the Santa Ana Region of Southern California, which while blessed with richer stakeholders, has nevertheless put their assets to work in an approach that should work in other regions.

12. Blue-green algae blooms occur naturally in the Delta, but they are worse under conditions of low flows, warm temperatures, and high nutrient conditions with ammonia. While more research will help pinpoint the extent of the threat to Delta species, actions in the Delta that improve circulation, increase stream flows, and control nutrients should be considered for a variety of reasons. The State Board staff are working with USEPA on a developing a TMDL to control nutrient concentrations under various water body conditions.

The Bay Delta Water Quality Plan will address flows, and while blue-green algae blooms information will not be a central issue in our consideration of flows, it will be among the various considerations we will have before as we set standards.

13. Rights to use water and the amount of water that can be safely allocated to the environment, agriculture and urban communities are at the heart of most water use conflicts. I became Executive Director of the Mono Lake Committee after the Water Board ruled that because of fish and air quality concerns, the Los Angeles Department of Water and Power (LADWP) would have to forego taking some of its water from streams that fed the Lake. LADWP did not lose its water rights, but its use of those rights was constrained to meet environmental needs. With this experience, I think decision-makers would have a much more constructive discussion of water rights if they shift their focus from water rights permits to three areas: licenses to use water, water measurement and reporting, and strengthening the Water Board's ability to use its existing authority.

A water rights license, unlike a permit, is closer to the real deal. The license amount of water is set by an on-the-ground inspection of how much water a project will actually use and it is this amount that will be enforced by the Board. The Water Rights staff estimate that 95% of the time, a license is issued for less water than the permit allowed, with the 5% exceptions being small reservoirs.

But licenses don't reflect reality either. They are written to include the maximum amount of water the water user has diverted in the single highest year of diversion during the permitted project development period. In addition, they do not account for water molecules that are used multiple times along a water course or for changes in regulations. Therefore, if you are looking for real water use, you must look at the water use reports filed by water diverters. The Water Rights division of the State Board is enhancing its electronic water rights database, eWRIMS, to allow for online water diversion and use reporting, and expects to complete the task during the FY2009-2010 fiscal year. While the quality of current information from diverters is currently poor, this is an area where monitoring and training could pay off. Also, the staff are putting programmed controls into the new system to reduce errors.

Delta diverters are not required to report their diversions and use, so the Water Rights staff is currently conducting an investigation of water use by Delta diverters and will bring recommendations to the Board this fall on next steps.

Finally, the State Water Board has continuing authority over water rights permits and licenses. It can revoke a water right permit or license when water has not or is no longer being used, and it can make changes to existing water rights. The Board can also impose additional restrictions on water rights, as in the case of Mono Lake. To do these tasks, for which we have existing authority, we need people, and without this human investment, the State of California will continue to get a water rights system that is weak, and will be even weaker as climate change begins to affect water systems.

Some Delta stakeholders and decision-makers are talking about creating more water rights judges. We may need more at some time in the future, but what we really need are attorneys, engineers, and scientists who can prepare the cases for the five judges we have right now.

14. Business as usual will not eliminate the 464 (May 2009) pending water rights applications. The only conditions under which we can refuse to accept applications is if the Board, through an adjudicatory process, or the courts make a "prior water right decision" finding there is no water available for appropriation, after which the Board will declare a stream "fully appropriated." This is a high bar.

The Water Rights division has, since 2003, been imposing and enforcing deadlines on water rights applicants, and the result is a 35% reduction (719 in 2003) in pending applications despite a staffing reduction of about 30% in the same period of time. Staff have also stopped preparing CEQA documents for applicants, and thus many of the pending proposals are the result of applicants taking time to hire and fund consultants to do that work.

To further reduce the backlog, the staff adopted National Marine Fisheries Service/Department of Fish and Game guidelines to identify those Northern California coastal streams that are unlikely to have significant impacts on fisheries and are considering a policy that would reduce permitting time associated with minor applications located above the point of anadromy in these areas. There are also some water rights processes that are now being done simultaneously rather than in sequence.

I have high hopes, however, for the development of standard permit terms for various regions or water bodies, which would allow the Board to issue a draft permit at the same time they issue a notice of the application. Under this approach, most applicants will know ahead of time the conditions they will be expected to meet, will have no reason to protest just to maintain standing while the project is being developed, and it will allow the State Board to comply more



easily with CEQA, a significant time and effort investment of staff. I can also envision standard terms for other issues, such as climate change and local supply development, such as recycled water and low impact development.

15. The Board decisions on allocating stimulus monies was well thought through and was not designed to slight urban areas, but it was designed to help level the playing field for disadvantaged areas that often miss out on grant opportunities. The grants, which are in amounts of \$5 and \$10 million, have been allocated now in three categories, all of which can benefit urban areas: sewage treatment (\$70 million), urban stormwater projects (\$42 million), and restarting bond-funded projects (up to \$70 million). The first two categories focus on low income, not small communities, and over 400 communities, including the City of LA and the City Long Beach, fall into that category. Many of the stopped bond projects are also in urban areas. The Board reduced the interest rate on the loan program to 0% for \$60 million of green projects (innovative and efficient) and 1% for the remainder of the funds, and we have received over \$1.5 billion in applications from urban agencies for these monies.

I think much of the outcry came from those who either had not worked recently or ever with the State Board on funding and who leapt to conclusions that would have proved unfounded if they had talked with us first. There was also the human factor of agencies and cities wanting all the \$280 million going to grants. My reason for not wanting to go that way was to encourage larger projects, and sure enough, some areas have applied for grant monies to cover disadvantaged communities and loans to cover a larger project. And, if the disadvantaged communities do not have their applications approved by September, the monies will be open to any community ready to go.

16. Management staff at the Water Board are mostly over 50, and over the next five years, retirements will accelerate from 4% this year to higher. We are lucky, however, to have succession plans. We have a "Test the Waters" web-based recruitment system. We have trained employees to actively recruit scientists and engineers from California Universities. And most importantly, we have a Training Academy that is developing future managers and executive leadership. Another issue that may affect recruitment is dealt with in the next question—disparity between supervising scientists and engineers.

17. At this time, the Water Board does not appear to have employee retention issues related to pay, but we are certainly aware of the gap in pay between engineers and scientists and between supervising engineers and rank and file engineers. Increasing salaries for scientists, however, is part of the collective bargaining contract negotiations, and given the State's financial challenges, this issue is likely to be in limbo for a while. Legislative approval and funds will also be necessary to close the supervising engineer gap.





Linda S. Adams  
Secretary for  
Environmental Protection

# State Water Resources Control Board

Charles R. Hoppin, Board Chair  
1001 I Street • Sacramento, California 95814 • (916) 341-5603  
Mailing Address: P.O. Box 100 • Sacramento, California • 95812-0100  
Fax (916) 341-5621 • <http://www.waterboards.ca.gov>



Arnold Schwarzenegger  
Governor

June 19, 2009

Tam Dodge  
Responses  
Water Resources Control  
Board

Ms. Nettie Sabelhaus  
Appointments Director  
Senate Rules Committee  
State Capitol, Room 420  
Sacramento, California 95814

Senate Rules Committee

JUN 22 2009

Appointments

Dear Ms. Sabelhaus:

I appreciate the opportunity to appear before the Senate Rules Committee for a confirmation hearing on my reappointment as a State Water Resources Control Board (State Water Board) Member. Following are responses to the questions asked in Senator Darrell Steinberg's letter of June 8, 2009.

## Statement of Goals

1. *Since March 2005 when you were first appointed, what have been your most significant accomplishments as a member of the board? What do you hope to accomplish during your current tenure as a member of the board? How will you measure your success?*

I have focused on three initial actions to change the State and Regional Water Boards into a performance-based organization—set clear priorities, develop measurable targets, and ensure accountability. For such seemingly basic and logical steps, progress has been excruciatingly slow but has steadily gained momentum in the last two years. Some accomplishments are:

- **Strategic Plan Update** with priorities, goals, and actions regarding surface and ground water quality, sustainable water supplies, water quality planning, and improved transparency, consistency and workforce capacity;
- **Bay-Delta Strategic Work Plan** outlining, among other actions, a comprehensive regional monitoring program, increased compliance and enforcement of water rights, and activities to improve water conservation;
- **Performance measures and an Annual Performance Report** to chart our effectiveness, evaluate strategies and make adjustments in our permitting, enforcement, planning, and policy development activities;

California Environmental Protection Agency



- **Enforcement initiatives** to establish a baseline of enforcement resources and outputs, develop a core set of enforcement performance measures for tracking, and address the backlog of violations requiring mandatory minimum penalties;
- **Data management improvements** that include development or upgrade of key systems, including the California Integrated Water Quality System and the newly released online Sewage Spills Incident Maps;
- **Internal coordination** among Water Board Chairs for organizational improvement, including development of the "Water Quality Improvement Initiative" legislative proposal and water education workshops; and
- **Management restructuring** that has resulted in a new executive team and senior managers focused on enforcement, public participation, information management and analysis, and research, planning and performance.

Cultural change and organizational improvement efforts are not flashy or popular, and, for an organization as established and insular as the Water Boards, extremely difficult. However, I still believe the Water Boards becoming a performance-based organization is critical, especially in light of the State's economic crisis and the opportunity presented by a changing workforce. Therefore, during my current tenure, I will continue to push for performance management and accountability, building on previous accomplishments and focusing on the following actions:

- **Identify and improve regulatory processes** that have, over time, been institutionalized as standard practices without periodic review and update in response to changing environmental, economic, societal or scientific conditions (the Underground Storage Tank cleanup program is one example);
- **Identify and eliminate operational costs** that result from duplicative, outdated or otherwise costly practices involving travel, procurement, contracting and other internal functions; and
- **Audit resources and re-align with priorities, performance measures and targets** to ensure a more strategic approach in allocating resources among the State and Regional Water Boards.

Success in cultural change and organization improvement is difficult to measure because baselines are often undefined and outcomes, long-termed. If the last four years is any indication, a personal measure of success will be persistence as there is much reluctance and opposition (active and passive, internal and external) to changing long-established practices and an ingrained organizational culture. Other, more quantifiable, measures might be: time saved or other outcomes as a result of improved regulatory processes; reduction in operational costs; and completion of resources audit and identification of re-alignment options.

2. *What progress have you achieved in implementing a robust water monitoring and research program within the state water board?*

With limited resources in this area, my strategy has been to identify and prioritize specific needs to support core water regulatory functions, leverage our limited resources with federal funds and by working with other research institutions, and ensure access to and exchange of monitoring and research data. To this end, the Water Boards have begun developing a research agenda to guide and coordinate our activities. Other accomplishments include:

- **Surface Water Ambient Monitoring Program (SWAMP)** established six statewide assessments (performance measures) to determine water quality status and trends over the last five years;
- **Annual State of the State "Report Cards"** to track wetland extent and condition, sport fish contamination, coastal beach postings and closures, and the ecological health of streams, estuaries, bays and coastal waters;
- **Financial support** distributed to projects that are developing new science related to water quality compliance, wetland health, and climate impacts;
- **Indicators** developed and implemented to detect the presence of endocrine disrupting chemicals, quantify pesticides toxicity in streams and sediments, and assess overall ecological health;
- **Geotracker groundwater quality data system** enhanced using Google Maps interface and other graphing tools and literature links; and
- **Statewide groundwater quality testing** being conducted to assess baseline groundwater quality and changes.

3. *How successful have you been in enhancing the scientific and research resources of the board?*

Not as much as I would have liked. Given our resource constraints, developing and leveraging partnerships is the only feasible way to enhance our scientific and research capabilities. We have partnerships with the Southern California Coastal Water Research Program (SCCWRP), the San Francisco Estuary Institute (SFEI), and Aquatic Science Center in ongoing scientific research addressing surface water concerns. The State and Central Valley Regional Water Boards are also active in the Central Valley Salinity Coalition (CV-SALTS) formed last year.

On a related note, in 2005, I initiated a review of the role of science and engineering in decision-making at the State and Regional Boards. The consultant's report contains 30 recommendations for improvement. I did not have the opportunity then to follow-up on this initial step, but will this year engage key stakeholders in evaluating the proposals, especially those pertaining to resource enhancement, for implementation feasibility.



4. *Please describe improvements in performance-based measurements. How can we tell if there is more compliance and improved water quality within the state?*

The Water Boards have struggled to develop performance-based measures since I committed us to the effort in 2006. Finally, in 2008, we approved our first set of performance measures, which consists of nine specific measures for enforcement, and began tracking them. Since then, State and Regional Water Board staffs have developed a series of preliminary performance measures for all program areas and will present them at the State Water Board's September 1, 2009 meeting. Next, we will establish annual targets for the measures and track our performance.

Our performance measures are a good start—the struggle to get this far has been too difficult for me to not celebrate just having performance measures in place. However, our initial focus will be primarily on output measures for tracking work products instead of outcome measures for tracking improved water quality and ecosystem health. We have begun work to modify and/or develop systems to more effectively track the latter.

We also must institutionalize performance measures so that they become an integral part of every program, every staff person's duty statement, and our entire organizational culture. A starting point is to consider how we might link performance measures and targets to the allocation of resources among programs, and among the State and Regional Water Boards.

In the meantime, our limited use of output-focused performance measures has led to key program improvements. For example, tracking of enforcement measures identified a significant lapse in our enforcement response for violations subject to mandatory minimum penalties, and our focused effort to address this has resulted in a reduction of the backlog to less than 7%. Our use of performance measures has also identified that the Waste Discharge Requirement program is showing significant declines in inspection and enforcement, which we are now reviewing to determine causes and make corrections.

A key to successful performance measurement is making information accessible. Water Board staff is working on an Annual Performance Report to present the results of performance tracking. The first report will be presented to the State Water Board at our September 1, 2009 meeting. Additionally, as lead for the implementation of Senate Bill 1070 (Kehoe, 2006), the Water Boards have been working with stakeholders on a web portal through which water quality data will be integrated. The portal will be accessible this summer. More on performance measures is included in the response to Question 7.

## State and Regional Boards

5. *In your letter to the Rules Committee in January 2006, you said that the board's role is to set statewide policies and provide guidance to the regional water boards. What actions has the board taken since your appointment in 2006 to ensure this consistency in statewide policies? How has the state water board reviewed and adjusted regional board actions that were not consistent with statewide policies?*

The Board has directed staff to develop for our consideration statewide policies on several significant matters. Of these, three have been completed and adopted since 2006—recycled water, supplemental environmental projects, and compliance schedules for surface water discharge permits. Two will be considered by the Board by the end of this year—water quality enforcement and regulation of once-through cooling water discharge from power plants.

Another type of action to ensure consistency is the development of statewide permits and regulations. The Board has adopted a statewide permit for sanitary sewer systems to reduce the number of overflows and sewage spilled. To be considered by the Board this year are two major statewide permits—one for discharges of storm water from construction activities and the other for landscape irrigation uses of municipal recycled water.

Other efforts to ensure consistency include: standardized templates for wastewater permits; guidance to assessing the effectiveness of municipal storm water programs; options for a statewide trash Total Maximum Daily Loads; and educational workshops for staff and Board members.

The State Water Board also utilizes the petition process to address issues of inconsistency. Between July 2005 and September 2008, the State Water Board has issued 8 orders amending Regional Water Board actions, either as a result of a petition or on our own motion. For example, we have remanded a Regional Water Board order for not complying with statewide secondary treatment standards, and another for inconsistency with the State Water Board's Bay-Delta Plan. During this same time period, the Board's Executive Director dismissed 74 petitions as having issues that were not substantial or appropriate for review.

I am concerned about certain aspects of the petition review process and am exploring some changes to make it more effective. Too often, the petitions that do come to the Board are limited to narrowly-defined legal or technical issues to which we are constrained and must consider within the process limitations of a Board meeting. I appreciate that this focused approach to petition review is a matter of efficiency, but would like to see more transparency and engagement of the parties in fully discussing and resolving the issues of contention.



6. *In your letter, you also mentioned you were open to exploring alternatives to the size and composition of regional water boards. The categories for regional water board membership were created in 1969. Given that 40 years have passed, and the issues confronting regional water boards have dealt more exclusively with water quality and have become more technical, do you believe membership criteria should be changed? If so, how? Given the problem that has occurred with maintaining a quorum at a number of water board meetings, should the number of members be changed?*

The Water Boards have developed a "Water Quality Improvement Initiative" (WQII) legislative proposal, released in 2008 in response to then-Senator Don Perata's Senate Bill 1176, that includes, among other changes, reducing the number of members for each Regional Water Board from 9 to 7 by combining the industrial water use and the water supply, conservation and production positions, and by combining the municipal and county government positions. I support this change.

Our WQII does not propose changing membership criteria for the Regional Water Boards. In my interactions with the Regional Water Board members, I have observed that the most effective ones commit time to understand the issues, keep an open mind and balanced approach to decision making, and continually strive for water quality protection and improvement—regardless of their academic background and professional credentials. I do not know how such intrinsic factors could be captured in specific statutory language on membership criteria.

7. *What accomplishments can be attributed to the Office of Research, Planning, and Performance? Does the board have adequate resources in this area?*

The Office of Research, Planning and Performance (ORPP) has limited resources in these difficult budget times. However, I am very proud of ORPP staff, their accomplishments in the two years since its formation, and their impact on the Water Boards, as a whole, in three areas—performance measures, water education, and cross-agency coordination.

In addition to leading a successful and inclusive strategic planning process that resulted in measurable goals and objectives, ORPP has driven the implementation of performance measurement systems as the means to measuring Water Board program effectiveness. Initial training on performance-based approaches, provided by ORPP staff to managers at the State Water Board, has led to the recent development of performance measures for the core regulatory, water rights and financial assistance programs. These measures are now being routinely used in the many of the reports that ORPP is responsible for preparing, including enforcement reports and the upcoming First Annual Performance Report.



ORPP has established a series of comprehensive educational programs and workshops for Board members statewide. The workshops are designed to introduce newly appointed Board members to the programs and responsibilities of the Water Boards and provide all Board members opportunities to learn, in greater detail, about important, current and controversial issues. The information developed for these workshops is comprehensive and is available not only to Board members, but to stakeholders and the public through our internet site.

ORPP has also assumed the responsibility for leading the Water Boards' cross-agency efforts. The most significant effort is the coordination of our climate change activities. Water is a key factor in energy usage throughout the state, which has significant, direct green house gas effects. A continued area of development for ORPP is the implementation of a robust research function at the Water Boards. While there is much research that is occurring, we have not been as successful as I would have liked at enhancing our resources to identify and carry out the direct research that I believe is essential to address today's water quality concerns. ORPP is currently implementing several of the activities identified in our strategic plan, adopted last year, to inventory all existing research and draft a proposed agenda for future research.

## Enforcement

8. *Now that the state water board has created an Office of Enforcement, what have been the results? Have quantifiable targets and performance measurements been developed?*

I wish I could report that the result is a definite and measurable improvement in water quality. However, as noted in response to Question 4, we are still focused primarily on output measures and targets for work products. The six enforcement measures that our data systems current track are: inspection monitoring; compliance rates; enforcement response; enforcement activities; penalties assessed and collected; and minimum mandatory penalty (MMP) violations addressed. Two outcome-related measures that we are working toward tracking are recidivism (facilities returning to non-compliance for the same violation addressed through enforcement action) and environmental benefit.

With the creation of the Office of Enforcement (OE) and emphasis on performance tracking and reporting, we have demonstrated significant improvement in two areas. The first is fines assessed, which almost doubled from 2007 to 2008, and tripled compared to 2006—\$28 million in liability assessed in 2008, of which \$10.6 million has been collected. The second is in MMP violations, where in 9 months we addressed approximately 13,812 violations from 455 facilities,

resulting to date in actual liabilities assessed of \$15.6 million with an additional \$26 million in process. Other OE accomplishments include the creation of specialized prosecution staff counsel and initiation of various pilot enforcement projects.

9. *What is the consistency of enforcement among regional water boards? Do the same violations in different regions receive the same penalties?*

I do not have specific data, just anecdotal information, regarding consistency of enforcement among Regional Water Boards. However, the State Water Board is taking steps to improve consistency.

The draft revised Water Quality Enforcement Policy, to be considered by the Board in October, contains new criteria by which each of the Water Boards will prioritize violations for enforcement response. There is also a new penalty calculation methodology specifically designed to ensure that similar violations receive similar penalty analysis regardless of which region the violation occurs in.

The OE, with regional enforcement staff and the Office of Chief Counsel, have developed standardized templates for enforcement hearings that are available for use by the regional water boards. Use of these templates will enhance consistency between the regional boards in enforcement proceedings.

10. *What has caused the delay in adopting the state board's enforcement policy?*

The draft revised Water Quality Enforcement Policy, on which staff began work in June 2007, is significantly different from the last version adopted in 2002—and, in my opinion, significantly improved. It has taken staff considerable time to refine the changes proposed in the Policy regarding small communities, enforcement priorities, State Water Board enforcement action, monetary assessments, MMPs, compliance projects, enhanced compliance actions, violation and enforcement data, and enforcement reporting and performance measures. While impatient at times with the progress, I am pleased with the quality of the draft Policy and will continue to push for further improvement.

As briefly mentioned in response to Question 5, the State Water Board adopted in February a Supplemental Environmental Projects (SEP) policy separate from the overall Enforcement Policy. The SEP policy was created, in part, to respond to concerns by the Legislative Analyst's Office regarding the Water Boards' past use of this settlement device. As a result of this policy, the Water Boards are requiring greater accountability from dischargers who use SEPs and placing reasonable controls on the use of SEPs in settlement of monetary enforcement actions.

## Sacramento–San Joaquin Delta

11. *In light of these developments, how is the state board working with other state agencies to manage the Delta? What role will your board play in the short term? What is your view of how the Delta should be managed for the long term?*

The cooperative approach over the last ten-plus years has not yielded positive results for the Delta. The State Water Board must take a more active and authoritative role in Delta management, revisit its obligations to protect competing beneficial uses in the Delta, and establish and implement water objectives that support public interest and public trust protections. This should include consideration of any new State Water Project and Central Valley Project export facilities in the Delta that will have a major effect on fishery and agricultural beneficial uses. This should also include an assessment of controls on diversions and discharges upstream of the Delta that have a large impact on the Delta.

In the short term, the State Water Board is implementing the actions in its 2008 Bay Delta Strategic Work Plan. Listed below are some of the actions that involve coordination with other state agencies.

- With regard to contaminants and water quality, we are developing a **comprehensive monitoring program** for the Delta, focusing on ammonia, blue green algae, selenium and pesticides. We are working with the Department of Water Resources (DWR), U. S. Bureau of Reclamation (USBR), Office of Environmental Health Hazard Assessment, Department of Pesticide Regulation, fishery agencies, water districts, and point source dischargers such as the Sacramento Regional County Sanitation District.
- With regard to flow, the State Water Board is reviewing **flow standards in the San Joaquin River** to protect salmon as part of its update of the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay Delta Plan). Concurrent with this, we are also reviewing **southern Delta salinity standards** for the protection of agriculture. These reviews are being conducted in a public process, and will rely upon information provided by DWR, USBR, Department of Fish and Game (DFG), other fishery agencies, water districts, and non-governmental organizations.
- The Board will consider in July a periodic review of the **Bay Delta Plan**, including staff recommendations for further work on objectives for Delta outflow, export/inflow, Delta Cross Channel Gate closure, Suisun Marsh, reverse flow, and floodplain habitat flow. Many of these elements may be affected by and are being reviewed as part of the Bay Delta Conservation Plan, and staff is closely tracking this effort.



- Concurrent with these water quality control planning efforts, the State Water Board has also been actively working with other agencies to promote the **efficient use of water**. We are working with DWR and the Department of Public Health on a water measurement database. We have also adopted a recycled water policy, and will evaluate the reasonableness of urban and agricultural water use in two high water use areas.

12. *The Porter–Cologne Act provides the board with the authority to protect the beneficial uses of water in the Delta. How is the board using this authority beyond setting salinity standards?*

In regard to planning, the State Water Board adopts both basin and statewide plans that identify existing and potential beneficial uses of water and sets narrative and numeric water quality standards for contaminants and other pollutants as well as for water quality parameters such as temperature, turbidity, and in the case of the Delta, facilities operations (such as the Delta cross channel gates). In addition, for the Delta, the State Water Board has set flow objectives as part of its Bay Delta Plan. The State Water Board sets effluent and receiving water limits to implement those objectives through its water quality permitting actions and considers those objectives when it issues water right permits.

The State Water Board's Bay Delta Plan focuses on flow and salinity, while other water quality parameters are addressed through the planning efforts of the Bay Area and Central Valley Regional Water Boards. The Regional Water Boards continue to conduct planning, including establishment of appropriate water quality objectives and programs of implementation for the control of pesticides, ammonia, mercury, selenium, and other contaminants in the Delta. State Water Board coordination assures that the programs of implementation developed for controls of salt and other contaminants in the various water quality control plans are comprehensive, consistent, and not mutually exclusive. Solutions to many of the Delta's problems will need to rely upon continued water quality controls that are established in conjunction with controls on flow and salinity.

The State Water Board considers the impact of actions on beneficial uses of water in the Delta when it carries out its financial assistance program. The State Water Board will evaluate, and as appropriate prepare a resolution that supports, various projects proposed for funding by DWR under Proposition 204, Article 5, "Sacramento Valley Water Management and Habitat Protection Measures." Approximately \$8 million dollars of projects will potentially assist in the implementation of the Bay Delta Plan.

13. *If blue-green algae is contributing to the decline in Delta species, what options does the board have to deal with this issue?*

If anthropogenic impacts are clearly identified as a cause, then potential solutions would require improved circulation, flow standards, control of nutrients and other water quality conditions. The State Water Board may address this issue using either our discharge permitting authorities or water rights authorities, or both. However, much more research is needed to allow a proper evaluation of the overall effect of blue green algal blooms on the environment, and to determine how much of the blooms are natural as opposed to induced by anthropogenic inputs.

### Water Rights

14. *What is the board's plan to reconcile water rights with water supply?*

As much of the difference between water rights and water supply can be accounted for by "paper water," we will attempt to reconcile them, as resources allow, through:

- **Water right licensing** based on inspection and determination of how much water has been put to actual use (95% of the time, a license is issued for less water than the corresponding permit for the project allowed);
- **Improved water measurement and reporting** to get a more realistic view of how much water is consumed; and
- **Exercising our continuing authority** by revoking a water right permit or license when water has not or is no longer being used, changing existing water rights through petitions, and increasing enforcement.

15. *[The state board has testified in public hearings before the Senate that there are approximately 511 pending water rights applications representing about 7.3 million acre-feet of water.] What will the board do to eliminate that backlog by 2020? Given the apparent imbalance of water rights with water supply, why is the board accepting applications for any new water rights until it brings the water rights in line with the amount of available water?*

The State Water Board must accept applications to appropriate water unless a stream system has been declared fully appropriated through: 1) a "prior water right decision" by the Board based on evidence taken at an adjudicatory proceeding; or 2) by the courts. Most pending water right applications are filed on streams that are not declared fully appropriated and for which no prior water right decision on the availability of unappropriated water exists. Therefore, the State Water Board must process these filed applications.

The State Water Board has reduced the number of pending water right applications by 35 percent since 2003. These reductions have been accomplished in part by imposing and enforcing deadlines on water right applicants. Additional improvements will only result from more efficient and effective permitting methods. To that end, our Strategic Plan commits to improving this process and the Board has directed the Deputy Director for Water Rights to work with stakeholders in making the water right permitting process more efficient and effective.

### **Federal Stimulus Funds**

16. *[Urban agencies have complained to the Legislature that these funds are unfairly restricted so that most large cities and counties are only eligible for loans and not grants.] Please describe those actions the state board has taken to respond to these concerns.*

The Board has clarified that the funds are not limited to small, disadvantaged communities and that there are many urban agencies that qualify, including the City of Los Angeles and the City of Long Beach. In all, there are over 400 communities in California that qualify as a disadvantage community. Since receiving the America Recovery and Reinvestment Act of 2009 (ARRA) funds on May 20, 2009, the State Water Board has distributed \$10 million in grants and \$8.9 million in loans to urban communities. The Board has recently authorized an additional \$42 million in ARRA funds to be made as grants for expanded use and wastewater treatment. We have received over \$200 million in grant applications for the expanded use projects funds from both urban and rural agencies.

### **Personnel Issues**

17. *To what degree are the state and Regional Boards experiencing retirements from top management and manager-level employees? If such retirements are occurring, do you have succession plans?*

The State Water Board's 2007 workforce analysis revealed that 36% of our staff is over 50, including 60% of our executive team and 57% of our program managers and supervisors. During this fiscal year, 4% of our management team has retired and this value is expected to accelerate over the next five years. The State Water Board Executive Director has instituted a new recruitment plan, expanded our Training Academy to support three tracks of staff development (technical, administrative, and leadership), and conducted succession planning with the Regional Water Board Executive Officers.



While I have not been personally involved in these efforts, I am aware of concerns that succession planning is made more difficult by pay equity issues and the civil service classification structure. For example, several Regional Water Board Executive Officers are expected to retire or step down from their positions this year and filling these vacancies will be a challenge as their salaries are lower than those of their engineering subordinates (Assistant Executive Officers and Principle Supervising Engineers).

18. *Are the state and regional boards experiencing any problems with employee retention or pay equity? Please describe how the board plans to reconcile these issues.*

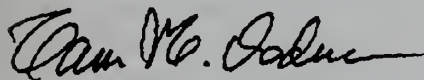
I am advised that the Water Boards have experienced a "normal" rate of attrition, which implies that employee retention is not a significant problem. As mentioned above, pay equity *is* a significant concern for Water Board employees from rank-and-file to the Executive Officer/Director levels. I do not know to what extent pay equity is a driver in employees' decisions to leave the Water Boards, but am aware of several instances where it was a major consideration.

Since staff salaries are dictated by collective bargaining agreements, Water Board management is required to work through the Department of Personnel Administration to address pay equity issues. Water Board Members do not have discretion on salary matters, including the salaries of our exempt Executive Officers and Director—and, given the State's current fiscal situation, I do not expect this issue to be resolved any time soon.

As requested, I have enclosed a partial Form 700, Statement of Economic Interest, covering the period of January 1, 2009 through June 19, 2009. Also enclosed is an amended Form 700 covering calendar year 2008.

Thank you for this opportunity to provide information to the Senate Rules Committee. Should you need additional information, please contact me at (916) 341-5602.

Sincerely,



Tam M. Doduc  
Board Member

CONTENTS  
ORIGINAL ARTICLES  
The Effect of the Diet on the Blood Pressure in the Normal Adult . . . . .  
The Effect of the Diet on the Blood Pressure in the Normal Adult . . . . .  
The Effect of the Diet on the Blood Pressure in the Normal Adult . . . . .  
The Effect of the Diet on the Blood Pressure in the Normal Adult . . . . .

DEPARTMENTS  
The Effect of the Diet on the Blood Pressure in the Normal Adult . . . . .  
The Effect of the Diet on the Blood Pressure in the Normal Adult . . . . .

THE EFFECT OF THE DIET ON THE BLOOD PRESSURE IN THE NORMAL ADULT  
The effect of the diet on the blood pressure in the normal adult is a subject of  
great interest to the physician and the public alike. It is well known that  
the diet plays a significant role in the development and maintenance of  
hypertension. The purpose of this study was to determine the effect of a  
low-salt diet on the blood pressure of normal adults.

METHOD  
The study was conducted in a hospital setting. A group of 20 normal adults  
was selected. Each subject underwent a series of blood pressure readings  
while on a normal diet. Then, each subject was placed on a low-salt diet  
for a period of four weeks. After this period, the blood pressure readings  
were repeated. The results of the study are presented in the following table.

RESULTS  
The results of the study show that the low-salt diet had a significant effect  
on the blood pressure of the normal adults. The average blood pressure  
decreased from 120/80 mm. Hg. to 110/70 mm. Hg. during the four-week  
period. This decrease was statistically significant.

CONCLUSIONS  
The results of this study support the hypothesis that a low-salt diet can  
lower the blood pressure in normal adults. This finding has important  
implications for the treatment of hypertension. Further studies are needed  
to determine the long-term effects of a low-salt diet on the blood pressure  
of normal adults.

DISCUSSION  
The results of this study are consistent with those of other studies which  
have shown that a low-salt diet can lower the blood pressure in normal  
adults. This finding is important because it suggests that the diet can be  
used as a means of preventing and treating hypertension.

June 2, 2009

Monica S. Hunter, Ph.D.  
Responses  
WQCB, Central Coast

## Statement of Goals

1. ***Since 2005 when you were first appointed, what have been your most significant accomplishments as a member of the Central Coast Regional Water Quality Control Board? What do you hope to accomplish during your current tenure as a member of the board? How will you measure your success?***

Since becoming a Board member of the Central Coast Regional Water Quality Control Board I have grown in my role on the Board in several ways. First, I have worked diligently to gain a functional understanding of the jurisdiction and authority of the Regional Board under the federal Clean Water Act and the state Porter-Cologne Water Quality Control Act. In part this has occurred through the excellent quality of information provided in the form of staff reports and background information in preparation for each hearing. I also actively seek information on priority problems and issues related to protecting and restoring water quality that is important to our region, and have attended all but two semi-annual Water Quality Coordinating Committee meetings where I have actively engaged in program/policy review and strategy development, providing input from a regional perspective to the State Board.

As a Regional Board member, I have worked together with my fellow Board members to address priorities for both proactively protecting watershed functions across the region, and aggressively identifying remediation strategies to restore degraded watershed functions associated major impacts to surface and groundwater, as well as to wetlands and riparian areas. A major effort has been directed at streamlining the Phase II Stormwater Program review and approval process to assure that Municipal Separate Storm Sewer Systems (MS4s) are progressing to program implementation in a more efficient manner to effectively address urban runoff. This has resulted in a more systematic review and permit approval, with greater clarity and understanding of the process and of the program components by the MS4s. Since our region has only one Phase I permitted Storm Water Program held by the City of Salinas, the remainder of the Stormwater Management Plans (SWMPs) being developed or implemented in Region 3 are for Phase II MS4s, and thus are in their first permit cycle with many challenges to be met in bringing their programs online. As a Board member, I have worked to move SWMPs through review and approval recognizing that as more SWMPs are implemented, benefits accrue across the region offering program model components to benefit other MS4s in the form of effective "best management practices" (BMPs), including meeting the required standard of "maximum extent practicable"

Senate Rules Committee

JUN 10 2009

APPOINTMENTS



(MEP) in achieving watershed scale protection. I have also joined with my fellow Board members in encouraging aggressive staff support for MS4s to provide guidance and technical assistance to each municipality or other entity progressing toward Board review and approval. This approach has demonstrated that coordination of planning and design effort among geographically linked entities is an effective method to support collaborative SWMP development and implementation. I anticipate that the annual SWMP reporting and review process will also inform all MS4s in the region, further clarifying program requirements and highlighting creative and cost-effective methods as model program components are successfully implemented. The Board has encouraged all MS4s to work collaboratively in their first permit cycle with staff to assure that they are on the right track and that program achievements during their first 5-year permit will meet all required actions.

Another important development associated with the SWMP Program is incorporation of Low Impact Development (LID) standards for SWMPs that will protect and restore ecological and hydrological watershed functions associated with development and redevelopment within urban areas. While the current climate for development has slowed, our region will see population increases over time that will require new housing and redevelopment of urban areas. Region 3 has approached the development of LID in a proactive manner, working collaboratively with industry and with local government to initiate development standards that rely on establishing post-construction hydromodification controls to reduce urban runoff and improve infiltration and recharge of groundwater basins. This proactive approach is a high priority for me as a Board member as I recognize the importance of developing efficient and effective strategies to achieve new standards derived from LID in ways that are consistent with local priorities and goals to meet housing needs for growth areas in the region. Introduction of LID to SWMPs also aligns this program with the region's vision to achieve healthy functioning watersheds, providing strategic and measureable action in a systematic, long-term effort that is part of our region's coordinated strategy to proactively protect watershed functions across the region.

Additionally, the Board's commitment to LID has resulted in establishing the Central Coast Low Impact Development Center as a resource to provide technical and scientific expertise in the region, as well as offering a model program for the state. Developed in partnership with the renowned Maryland Low Impact Development Center, the program has flourished under the direction of Dr. Darla Inglis, who joined the program in 2008. Benefits to the region have been achieved in just a short time, as Dr. Inglis has focused on work with the MS4 communities in the region to identify appropriate and cost-effective strategies for LID design and implementation. Through her efforts, the Storm Water Program has shifted away from one of resistance to finding ways to meet program requirements, to working collaboratively with Region 3 staff toward permit approval. Dr. Inglis has also effectively worked with State Board staff assisting in their efforts to maximize Region 3's experience in bringing LID online for other regions. In my current term, I will continue to focus on the Stormwater Program and to find ways to

expand the role of the Central Coast LID Center, including identifying long-term funding to assure that the program is self-sustaining.

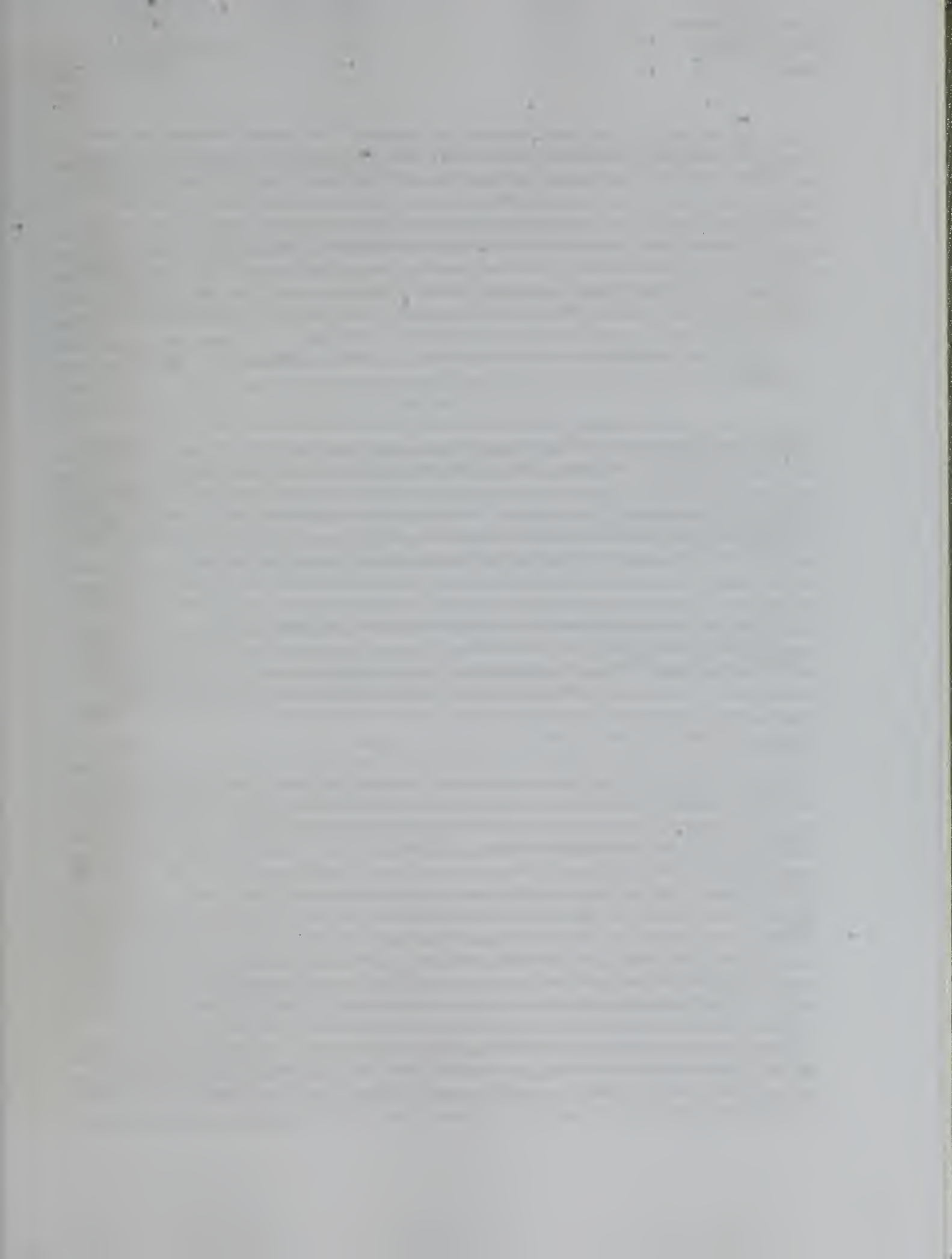
Another aspect of my work on the Board during my first term has contributed to a steady focus and recognition of the role of the public in providing input for Board consideration from both the regulated community as well as from stakeholders in the region. This includes enforcement actions, permit review and approval, as well as program review and policy development. For example, in a recent hearing on the Basin Plan amendment for onsite wastewater systems, the Board heard many stakeholders expressing concern that they did not have access to the current phase of the process for developing MOUs with local agencies, including opportunities for input to new criteria for onsite system management plans. In discussion with fellow Board members, I proposed that Region 3 establish a website to post Draft MOUs to facilitate public access and review by providing all MOUs in one location where stakeholders could track progress for their area in order to be informed and prepared to engage in their local community review and approval process. The staff immediately responded with an excellent design that will support a more informed process, linking key documents with informative background information to help educate the public on the new Basin Plan criteria, as well as specific program development for their community.

My focus on public input has also been supported by my fellow Board members in clarifying local concerns through follow-up with staff, who have demonstrated a commitment to providing follow-up and response to clearly stated stakeholder concerns and issues raised, leading to a more collaborative and better informed process. As a social scientist, I have contributed to staff's efforts to identify and incorporate meaningful public outreach and education, as well as public participation in the many programs provided on a range of issues. During my current term, I will continue to focus on identifying potential opportunities and direct staff to consider effective and efficient options to maximize public involvement in the various programs to contribute to a strong public outreach and involvement strategy. I am satisfied that Region 3 staff have made this component of their work a high priority, although constrained by limited time and funds, and anticipate that their interest and response to these issues will continue to build effective action.

Last, I have strongly supported one of Region 3's most important programs through Board approval to continue funding for the Central Coast Ambient Monitoring Program (CCAMP). The mission of CCAMP is "to collect, assess, and disseminate scientifically based water quality information to aid decision makers and the public in maintaining, restoring, and enhancing water quality and associated beneficial uses." This program has contributed approximately ten years of data on coastal confluence streams, including both program generated data (systematic 5-year watershed rotation throughout the region), and other externally generated data (with appropriate quality assurance controls) to create a highly useful database for access by the public as well







to support the Region's program priorities and actions. This includes internal program coordination with the Conditional Waiver of Waste Discharge Requirements for Irrigated Agricultural, TMDLs development, and will most certainly contribute to the Stormwater Management Program monitoring effectiveness. My advocacy of this program has extended beyond my role as a Region 3 Board member, seeking opportunities outside Board actions to raise awareness of the value and benefit of the CCAMP Program, to advocate for its continued support through external sources to assure that the program continues to gain and expand in keeping with the Region's needs and uses for the CCAMP database. I will continue to advocate for the program in my current term.

***2. What do you believe are the most serious problems facing your regional board?***

While urban issues are being addressed through implementation of the Phase II Stormwater Program, agricultural nonpoint source pollution remains a huge challenge, with many significant dimensions of agricultural operations requiring changes in practices to effectively reduce nitrates, pesticides and sediment due to erosion affecting both surface waters and groundwater. Of these, high nitrate levels are prevalent across the region's watersheds, and clearly present an enormous and significant problem that can only be addressed by improving farm practices to reduce discharge of contaminated tail water and other discharges associated with irrigated agricultural operations. These changes include requiring irrigation tail-water reductions from farm operations; improving efficiencies of irrigation systems; reducing fertilizer applications through nutrient budgeting; inspection of farm operations to verify changes in practices; and developing ways to track fertilizer applications. Designing and implementing Best Management Practices (BMPs) that achieve these changes is a high priority for the Irrigated Ag Program, with required monitoring to access overall effectiveness of BMP implementation.

Of great concern are impacts to drinking water caused by high contaminant levels evident in the fact that 17% of the public supply wells in the region were determined to be contaminated by pollutants as reported by the Department of Water Resources in 2003 (using data that ranged from 1994 to 2000). Of the 17%, 55% exceeded public health standards for nitrate in drinking water. Region 3 staff reports that "this reference shows nitrate to be the single most important contaminant of drinking water in our Region." Additionally, we are lacking data to determine the significance of impacts to private and small domestic water supply systems, which our Region will pursue through analysis of existing data to determine what information is available to consider public health impacts and protection of privately owned water supply operations. Additionally, Region 3 staff is coordinating efforts with Monterey County, the California Department of Public Health and the State Water Resources Control Board, in support of SB X2 1 (Perata) requiring a study of the Salinas Valley to determine "causes and the extent of nitrate contamination within the groundwater basin and evaluate remedies to address the problem." Region 3 will play an important role in determining impacts to individual

domestic wells which is not adequately addressed in SB X2 1, and is working cooperatively with the county to require nitrate sampling for permits on all new wells.

In terms of protection of beneficial uses, problems associated with nitrates and impacts to surface water also present immediate concerns for beneficial use protections for aquatic wildlife. Our region has determined that the drinking water standard of 10 mg/L does not adequately protect sensitive aquatic wildlife, and through targeted study, has determined that the numeric target of 1.0 mg/L-N is more adequate to protect beneficial uses of surface water for aquatic life. This has led to new listings on the 303d List for Impaired Water Bodies within the region, and development of Total Maximum Daily Load (TMDL) objectives that will require significantly lower nitrate concentration levels than currently required for protection of the public drinking water supply.

Additionally, Region 3 has initiated a Nitrate Working Group that incorporates staff from different programs (Stormwater, Agriculture, TMDLs, etc.) in order to coordinate action throughout the region to assure all effective measures are applied systematically through alignment of actions across programs. In my view, the integrated approach that the Region has utilized in developing a response and proactive strategy to address the nitrate problem maximizes the resources and full capacity of Region 3 staff to achieve targeted outcomes to the extent possible.

**3. *How does your board help the public understand the state of water quality in your region? Where should the public go for information on water quality issues, such as beach closures, sewage spills, or the overall quality of water in rivers, streams, and ocean waters in your region?***

As noted in my response above, Region 3 has led the way in designing and implementing the Central Coast Ambient Monitoring Program (CCAMP) which has over the past ten years been effectively utilized for many purposes including informing the Board on important trends in water quality problems, supported determination of the 303d listings and development of TMDLs, and is also a fundamental component of region-wide monitoring and is eventually anticipated to house all monitoring data within the region. The CCAMP database was also designed from its inception to provide information to the public and has undergone many revisions and updates that have over time made the website more easily accessed and offers 'user friendly' features and tools that allow the layperson to explore water quality data and trends across the region. The CCAMP database is also the main platform for Volunteer Monitoring Programs within the region, supporting these activities through coordinated technical quality assurance, and improving the potential for consistency of data within watersheds and for specific rivers and creeks where volunteer programs are actively working to acquire water quality information. Organizations that include the Coastal Watershed Council, and state agencies that include the Coastal Commission and federal agencies including the Morro Bay National Estuary Program and the Monterey Bay National Marine Sanctuary have all utilized CCAMP data, noting the high value of the program data and



contribution to collective efforts to develop and understand water quality problems in the central coast region, and to consider potential viable actions that will lead to solutions. Region 3 also conducts the Central Coast Environmental Assessment Network (CCLEAN) which is a program designed to monitor intertidal and nearshore waters of the Monterey Bay region, linking ocean data with the CCAMP database. The CCLEAN Program serves as the nearshore monitoring component for the NPDES receiving water monitoring and reporting requirements for 5 entities that discharge to Monterey Bay including the cities of Santa Cruz and Watsonville, Duke Energy, the Monterey Regional Water Pollution Control Agency, and the Carmel Area Wastewater District.

Information on sewage spills is available via the statewide database for the Sanitary Sewer Overflow Reduction Program accessible on the State Water Board website. A recent addition to the database includes a map of sewage spill incidents that provides a search tool for investigating sewage spills by geographic area. Additionally, Regional Board enforcement reports also include violations resulting from sewage spills and overflow incidents and are also accessible via the web where this regularly issued report is linked to Board Agenda reports and documents. Information on beach closures is currently not available on the Regional Board website. However, the website is being revised and will offer this information in the future. Information is available via county websites, and is often a component of the County Public Health Department. Newspaper accounts of major beach closures are also a source of information for the public to remain advised on health risks and beach closure actions.

### **State and Regional Boards**

The state and regional boards were created nearly four decades ago. In January 2009 the Little Hoover Commission issued a report on improving the performance of the state's water boards. One of the findings was that the relationship between the state and regional boards is not well-defined. This has led, they believe, to inconsistencies and inefficiencies among boards, an inability to set statewide priorities, and a lack of focus by the state board on holding regional boards accountable for clean water outcomes.

The report also found that there is little focus on clean water outcomes or accountability. Regional boards admit they have difficulty in analyzing watersheds to determine whether their programs are protecting and improving water quality. The regional water boards' focus is more on issuing permits and determining whether dischargers abide by permits than determining if the water is actually getting cleaner.

Another issue that has been raised in the past, and also discussed in the recent commission report, is that many of the issues board members have to deal with are very technical, and a number of board members are, basically, volunteers and do not have such formal technical experience.

**4. *What is your view of the relationship between the state board and your regional board? What type of guidance do you receive from the state board?***

I believe that the role of the Regional Boards and the relationship to the State Board is well defined, understanding that ongoing effort to improve and clarify the role of each is an important aspect of continued growth of the responsibility of each in meeting state and federal regulatory mandates. This is especially important as the scientific and technical basis for regulatory program development continues to expand action necessary to implement the Clean Water Act and the Porter-Cologne Water Quality Control Act as the work of these agencies progresses with addressing the many complicated and not yet fully characterized problems associated with nonpoint source pollution. In my view, during my term, the leadership of the State Board in identifying strategic areas of policy and program development, including gaps and updating old policies, has actively been conducted in coordination with Regional Boards, who provide the locally unique and distinct set of priority problems associated with specific impacts to water quality at the regional scale.

As the State Board meets its function in providing statewide policy, I believe that our Region is also meeting its obligation to consider region-specific issues, in context of broad scale goals for protection of watershed functions and goals for improving water quality in surface and groundwater. Our role, therefore, is to determine how to apply state policy through conditioning for permit approval that meets the standards set by state and federal law, and enforcement of regulations through individual case review for those who fail to comply with state and/or federal law. Furthermore, the State Board provides review of Regional Board decisions, providing an appeal process for those who wish to challenge a Regional Board decision. Additionally, legal counsel is provided to the Region by an attorney based in Sacramento but who is assigned to the Region, and is therefore able to actively participate in coordination across regions to assure consistency where appropriate can occur. Legal support to the regions has also been augmented by the formation of the State Board Office of Enforcement, providing legal staff to the Region when necessary, improving the way cases are developed across the regions.

The State Board Liaison to the Region also attends Regional Board hearings providing updates on current and future State Board actions including program and policy development statewide. Her attendance at Regional Board hearings also ensures that the specific issues and priorities for our Region are directly communicated to the State Board, both through observation of hearing matters, and also through direct exchange of information with Board members as a feature of the State Board member's report to the Regional Board given formally during the hearing.

The Regional Board Chair also participates in a monthly conference call with the State Board Chair that is intended to provide a forum for all Regional Chairs to discuss issues and review upcoming planned actions. As a Board Member, our semi-annual Water



Quality Coordinating Committee meetings have vastly improved communication between the State Board and Regional Board members in recent years, focusing on critical statewide action items, leading policy debates, and in the last two years, providing a meaningful process for Regional Board members to contribute to the development of the State Board's Strategic Plan (2008-2012).

Guidance from the State has been most effective in setting the pace for improving effectiveness, including a shift toward becoming a "performance based organization" emphasizing tangible outcomes that improve and protect watershed functions. In part this effort was initiated by Region 3 staff, who then collaboratively presented our program process at a WQCC as a way to launch State Board actions. This approach is presented in the Strategic Plan (2008-2012) which outlines goals for policy and program implementation that prioritize watershed scale actions "which stakeholders identified as the most effective approach to manage and protect the State's water resources." In our Region, our strategy has been to embrace a vision of healthy watersheds that focuses on attaining healthy aquatic habitat, sustainable land management practices, and protection of groundwater. This view recognizes the importance of protecting hydrological functions, inter-relatedness of surface and groundwater, as well as the important connections between protecting water quality and water supply. These goals have been instrumental in structuring Regional Board programs and to establish key parameters intended to measure environmental improvements such as "physical, chemical and biological conditions in water," and also operational measures which are intended to gage the changes that occur as a result of program action. The later includes measuring both actions taken by staff and the Board, as well as behavioral changes by dischargers that demonstrate compliance. Through collaborative efforts with State Board staff, our Region has continued to pursue this approach to improving program effectiveness that conforms to broad statewide goals to achieve integration of program effectiveness with measureable outcomes.

***5. How do you balance the board's focus on the permitting process and the focus on broad policy issues, such as updating basin plans and setting regional priorities? What is the best use of the board's time?***

In my view Region 3 staff as directed by the Executive Officer, has developed an excellent process for evaluating program effectiveness and setting annual priorities that are designed to maximize staff time and resources in order to meet objectives, and also to address new and growing areas of high priority. In part, priority issues are driven by programmatic cycles (e.g., the triennial review, reissuing of general permits) as well as by program mandates (e.g., Stormwater Program, TMDL Program). This aspect of the Board's function is most efficiently conducted by staff who provide excellent background reports and clearly stated and presented recommended actions for Board consideration. Additionally, because staff preparations involves work directly with the regulated community, review and updating permit conditions often moves forward efficiently



through "consent" following Board review, allowing the Board to proceed with approval when appropriate. The Board does discuss any issues that need further explanation or additional information that are presented to the Board for approval under the "uncontested" category, but often staff reports adequately present the facts on the matter, and the discharger has waived the hearing, also satisfied with the process. My experience has been that when the Board does inquire further into the details of a "consent" item, staff is always prepared with information necessary for further consideration by the Board, legal counsel is prepared, and the Executive Officer also is ready to provide additional details and information in response to Board inquiry in the course of the hearing allowing the Board to proceed. Therefore, the process is one that has been made more efficient through excellent preparation by staff and legal counsel, and through Board preparedness and inquiry in hearing the matter and reaching a decision.

Program and policy issues are also effectively addressed and I feel are given adequate time by the Board, again due to the fact that Region 3 staff has developed and implemented an outstanding comprehensive process for evaluating both short-term performance in achieving goals, as well as long-term strategies for keeping pace with emerging priorities, and building program effectiveness. In part this occurs through the annual "off-site" meeting conducted in a less formal manner than the hearing format, and is also intended to review the broad set of program objectives set from year to year, evaluate and reassess outcomes and progress to meet goals, and identify and focus on essential priority actions for the coming year. The structure for this process has been developed as part of the "healthy watershed" vision that links broad goals with tangible objectives and outcomes. For example, goals linked to achieving healthy aquatic habitat have created the basis for developing a basin plan amendment for riparian protection. In this manner, the watershed focus and related broad policy issues lead to effectively utilizing the basin plan as a mechanism to achieve a strategic outcome.

In considering the best use of the Board's time, I am satisfied that our focus on policy and program effectiveness are setting a pace that has already shown impressive results (LID Center, Stormwater Program, TMDL Program). I am also satisfied that the Board's time and focus on individual cases, and on allowing for a full hearing for those dischargers who are seeking a thorough review and who are facing enforcement action or reissuing of a complicated discharge permit, also demands the Board's full attention. In these actions, our Region has demonstrated their commitment to providing a fair process in which individuals who wish to dispute water quality regulations or permit conditions, monitoring requirements, etc., can receive a fair hearing. The Regional hearing process is one of our most important functions in that these proceedings are conducted as near to a given community as possible, they are accessible by diverse stakeholders from within the region, and they provide an important forum in which to review all sides of the issues and consider conflicting needs and points of view. This function cannot be diminished, and is a unique aspect of the Board's work that centers the importance and value of protecting water quality and quantity in the region where

the practice is occurring, where local residents can participate in and contribute to the action of the state to protect water quality and beneficial uses for all.

**6. *How do the state board and your regional board staff assist you to better understand some of the complex issues before you? Do you have any suggestions on how the state water board's staff might better assist you?***

As noted in an earlier answer, at the regional level, the staff prepares reports for each individual hearing item. These reports are organized to present background (the history of the permit or enforcement action), current information and status of the problem, and recommended actions that also provide a context for understanding the outcomes being sought. Additionally, staff presentations during the hearing are very well organized and highly effective in conveying the essential high points for Board consideration, and if appropriate, provide more details on any disputed or problematic aspect of the issue. These presentations also include informative visual information that is always instrumental in conveying the nature and extent of the problem, illustrating through tabled format or mapped data presenting past trends and projected future progress, defining areas where action is not sufficient and more is needed, including greater mitigation or further study. Additionally, staff reports, public comments and any related reports or studies are sent well in advance of the hearing in order to provide adequate time for review and preparation by Board members, including website links to technical reports and other supporting documentation. I am also able to submit questions in advance of the hearing and request further information which is always provided as requested to assist me in gaining a full understanding of any given issue related to a hearing matter. Additionally, I have access to legal counsel for the Board, who can provide additional information or direct me to further information as I prepare for a hearing.

State Board assistance, as noted, occurs in several ways, including the semi-annual Water Quality Coordinating Committee, as well as review of legal issues with State Board legal counsel that occurs as part of the WQCC. These meetings are instrumental in gaining the statewide picture, hearing from other regions throughout the course of the two-day sessions, as well as from hearing directly from State Board legal counsel who review recent court decisions that may have implications for the work of the Regional Boards. As a regular event, our State Board Liaison, currently Fran Spivey Weber, attends Regional Board hearings, and reports to the Board on State Board matters as an agenda item, allowing for questions and comments to be exchanged during the public hearing process. Additionally, the State Liaison remains in attendance in the hearing to directly observe issues and concerns that are occurring in the Region.

In my short experience on the Board, State Board efforts to connect with the regions, and to provide meaningful and productive statewide work sessions that focus on broad policy and program effectiveness issues has greatly improved from my very first WQCC



meeting, to more recent meetings conducted by Chair Doduc. My commitment to the process is also clear in that I have attended all but two of the WQCC meetings since 2005, and in both cases was unable to attend due to illness. I anticipate that as the State Board proceeds with implementation of the Strategic Plan (2008-2012), Regional Board involvement will continue to play an important role to allow input from the Regions to State Board program development, and that this interaction will continue to define Regional needs that will be the focus of future program development to the extent possible, providing needed support to the Regions.

To the extent possible, I am eager to have the opportunity to explore statewide issues through formats like the WQCC, where intensive focus on water quality matters can increase my knowledge and understanding of the challenges facing the state. I feel that the Regional Board support for Board members is very well conducted, and therefore, I have no suggestions for improvements other than to hope that no further cutbacks in staffing occur that could seriously affect the current level of quality of performance by staff.

## **Enforcement**

In 2005 the Office of the Secretary of Cal/EPA reported to the Legislature on environmental enforcement and suggested that the state and regional water boards were among the worst agencies in enforcing the law. In 2008 the state board, in its *Strategic Plan 2008–2012*, said it would adopt an updated water quality enforcement policy by December 2008. That enforcement policy will now not be adopted until mid to late 2009. On January 1, 2009, the state board published its 2008 enforcement report. Among other things, it showed the number of violations that were imposed by regional boards compared to completed enforcement actions. For the four-year period from 2005 through 2008, the Central Coast regional water board scored a low of 16 percent in 2008 and a high of 63 percent in 2005 in wastewater violations compared to completed enforcement actions. This is well below the average of the nine regional boards. For stormwater violations compared to completed enforcement actions, the board scored a low of 87 percent in 2008 and a high of 99 percent in 2005. This is about average for the nine regional boards.

### **7. *What is your view on how your board should enforce water quality laws? When are fines and penalties appropriate, and when are more informal actions necessary?***

Regulated activities that fall under the jurisdiction of the Regional Board, whether through a discharge permit or through other mechanisms for protection of water quality, are subject to monitoring and reporting, or other methods to assure compliance, including field inspections, characterization, study and documentation of onsite practices and remediation when required. The Region has moved to electronic



reporting and documentation that has greatly advanced the Board's ability to identify and track violations, including repeat offenses by a given discharger, and to also identify specific violations and their links to priority problems (e.g., contaminated discharge that contributes to nitrate levels in surface and groundwater, or illicit discharge associated with industrial waste or construction site activities).

The Executive Officer has the authority to take initial action on violations and to determine the level of severity under the law and to act in accordance with prescribed minimum actions, including determining when fines or penalties must be considered. This approach includes several levels of informal actions including opportunities for the discharger to meet with staff to discuss options for corrective action and to determine any available assistance that may be provided to facilitate immediate action and resolution. Region 3 has utilized these informal steps in addressing violations in order to focus on eliminating poor practices and introducing more appropriate practices as quickly as possible. Consideration of fines and penalties involves review of a complex set of criteria including mandatory minimum penalties, any economic benefit derived from failing to comply with water quality regulations, or failure to take steps required through a time schedule order designed to reduce or eliminate poor practices, and to implement systems and operations that comply with the law. Additionally, consideration of the impact of recalcitrant behavior on other dischargers, even if considered minor violations such as late reporting, or failing to comply with monitoring program requirements, should also be viewed for the message that is conveyed across the industry or to local permitted agencies, in allowing seemingly minor actions to go without penalty. This is especially true where failure to monitor as required later reveals undetected water quality impacts that are evident once monitoring comes into compliance. In another example, the Regional Board reviewed a case where a discharger had failed to file monitoring reports and other required reporting documentation, and on field inspection was found to be in violation of the permit, with a broken irrigation system discharging directly to an adjacent creek. This case was brought to the Board and resulted in penalties assessed for all violations sending a strong message to the discharger and others in the industry that failure to comply with monitoring and reporting will not be overlooked by the Board and will be pursued.

**8. *How do you prioritize your enforcement activities, given current budget constraints?***

All violations are tracked by staff and are subject to systematic evaluation by enforcement staff to determine required action including minimum mandatory penalties (MMP). Evaluation criteria for determining appropriate enforcement actions include both policy aspects (is the violation contributing to a high priority regional problem), as well as considering the extent and severity of a violation, and the environmental damage resulting from the violation. Additionally, enforcement actions also require

consideration of the discharger's past history, whether there have been improvements or other efforts made to eliminate the problem, and whether there is any economic benefit for failing to meet water quality regulations. Recent efforts to establish an electronic database will greatly enhance our ability in the future to assess trends across different practices (e.g., landfill management, industrial site chemical spills, wastewater system operational failures and spills, etc.). Enforcement reports to the Board now display quarterly updates of all violations regardless of the level of severity, providing Board comments and direction to staff on issues of concern, and contributing to prioritization of enforcement actions. While the current transition to the electronic reporting format and integration of violation reports and other relevant data are not yet perfectly synchronized, Board oversight will continue to direct staff as this new approach is refined.

**9. *Without a current formal state board policy on enforcement, how does your board determine it is consistent in its enforcement practices with other regional boards?***

There is an existing State Board policy in effect at this time, and this policy continues to provide guidance on enforcement actions. While the policy was last updated in 2002, it is fundamentally consistent with the Clean Water Act and with the state's Porter Cologne Water Quality Control Act. The State Board Office of Enforcement, under Program Director Reed Sato, has undertaken action to update and revise the current Water Quality Enforcement Policy for the state that includes input from the regions through the formation of an Executive Steering Committee including Regional Board Executive Officers, who have engaged in review of the draft revised guidelines and also to consider public comment received on the draft. This process is underway at this time and continues to make progress and was most recently reviewed by the State Board in February 2009.

Additionally, Region 3 Enforcement Staff actively engage in the Statewide Enforcement Roundtable, providing regular interaction among the regions regarding enforcement practices and trends. Additionally, the Board also receives legal guidance on enforcement matters from our legal counsel, who is assigned to the Region, and who also works closely with legal counsel from State Board as well as from the other Regions. In this manner, there is a constant review and exchange of information regarding trends in enforcement practices across the regions and with State Board staff.

Last, the State Board provides summaries and reports of significant enforcement actions, including reports issued by Executive Director Dorothy Rice. These reports provide information on key actions and upcoming cases that will come before the State Board and help to define large scale issues of importance statewide.



## **Irrigated Agricultural Lands—Waiver of Discharge Requirements**

In 2004 the Board adopted a conditional waiver of waste discharge requirements for discharges from irrigated agricultural lands. This Board order will expire in July this year. Board staff is now revising language for a new Board order for irrigated agriculture that will provide a schedule to comply with various discharge requirements. Board staff does not expect to have the revised language ready by the time the current order expires this July.

### ***10. How will the board deal with the expiration of the order for irrigated agricultural lands this July? If the board extends the current order, will it be strengthened in any manner pending the development of new language?***

The current Conditional Waiver for Discharges from Irrigated Lands permit was issued in July 2004. The first permit period (5 years) of this program have resulted in enrollment of 1737 growers of the estimated 2200 to 2500 in the region, representing a total of 395,000 acres of irrigated land (June 2009). This includes providing program information and educational outreach and technical coursework in other languages including Spanish and Chinese to name two. The Conditional Ag Waiver Program requires all commercial growers with irrigated agriculture farm operations to complete a 15-hour course in managing farm water quality, develop an on-site farm water quality plan, and conduct monitoring of their farm operations either through the cooperative monitoring program or individually. Staff has been engaged in stakeholder meetings initiated in 2008 to review the current Conditional Waiver Program and consider recommended changes and new elements for the Conditional Waiver with input from the Agricultural Advisory Panel (established in 2003) that includes representatives of the agricultural community and other diverse community groups. Staff has also sought input from other interested parties and organizations including municipalities, water districts, other resource agencies, environmental groups and environmental justice organizations.

At our February 2009 Board hearing, staff presented an update on the Irrigated Ag Conditional Waiver review process. Public comment on the hearing item included many of the Agricultural Advisory Panel members, as well as others who expressed many diverse perspectives on the proposed revisions to the permit, including the request that the scope of revisions be limited. On the suggestion of the Executive Officer, the Board endorsed the view that Board review should include the full range of proposed changes and water quality issues in order to assure that all aspects of impacts to water quality are considered by the Board in making its final determination on the new conditions for the Conditional Waiver. I anticipate that the July staff report presenting the best options for extending the permit will include a proposed revised schedule for completing the permit review that will comprise a finite period at which time the Board will be presented with the final Conditional Waiver permit conditions for the new permit cycle. It is also



likely that there will be many stakeholders whose views will be submitted to the Board in writing, and also who will attend the hearing to comment formally during the hearing, which the Board will also consider in making their final determination. Therefore, at this time, it is not possible to know what action the Board will take. However, I am confident that the work that is being conducted at this time, and that will continue to occur during the extension of the current permit, will lead to a revised permit that incorporates necessary changes and strengthens the actions necessary to assure water quality protections are being achieved reducing pesticides, nitrates, and other contaminants associated with irrigated agricultural activities from entering surface water and groundwater.

***11. What types of schedules for compliance does the board envision with the new language regulating agricultural discharge?***

The current Irrigated Ag Conditional Waiver permit incorporated a schedule that allowed for phased program implementation that included cooperative participation in the program in the initial stages, with increasing levels of requirements including enforcement action, as the program progressed during the first five-year permit period. This program was effectively managed through cooperative partnering between the Regional Board, the growers, UC Extension, the Farm Bureau and others who play a role in conducting the educational components, technical assistance, the monitoring program, field inspections and program review. I anticipate that the next permit will carry equally effective and aggressive time constraints for compliance, and that the associated agency and organizational support will also work collaboratively to meet scheduled requirements and program mandates as effectively as they have during the current permit period.



Russell Jeffries  
WQCB, Central Coast  
Responses

ATTN: Nettie Sabelhaus  
Senate Rules Committee Appointments Director  
Room 420  
State Capitol  
Sacramento, CA 95814.

TO: SENATOR DARRELL STEINBERG

FROM: RUSSELL M. JEFFRIES, CCRWQCB

RE: Responses to questions from the California Senate Rules Committee

Dear Senator Steinberg:

Please accept these responses to your letter of May 11, 2009 regarding my service on the Central Coast Regional Water Quality Control Board. Should you have any further questions of me, please contact me so that I may respond to your requests.

- 1. *What have been your most significant accomplishments as a member of the Central Coast Regional Water Quality Control Board? What do you hope to accomplish during your current tenure as a member of the board? How will you measure your success?***

My most significant accomplishments during my tenure on the Board have been:

- a. The resolution of litigation and the implementation of comprehensive mitigation strategies and regional mitigation programs resulting from the settlement of suits concerning Diablo Canyon Nuclear Power Plant;
- b. The resolution, clean-up, and restoration of coastal, wetlands, and beach resources that were severely contaminated from leaking oil pipelines in coastal San Luis Obispo County ;
- c. The resolution of and the development of a new, comprehensive sanitary sewer plant for the City of Hollister;
- d. Our success in establishing the first agricultural waiver program in California that was not challenged by any of the interested parties and stakeholders.
- e. Provision of funding for significant wetlands creation and enhancement programs proximate to the Elkhorn Slough National Estuarine Reserve and the Monterey Bay National Marine Sanctuary

Senate Rules Committee

JUN 04 2009

appointments



My goals for the next four years are as follows:

#### Short Term Goals

- Establishment, Implementation, and enforcement of effective storm water standards for permits for municipalities (Phase I and II work)
- Near term TMDL implementation tasks
- Efficient regulation of agricultural discharges – waiver policy review, plus a combination of education and outreach, inspections, monitoring, and enforcement
- Produce Low Intensity Development (LID) strategies to resolve basin management conflicts with land use decisions by local governments
- Power plant permitting
- Environmental problem solving approaches: conclusion of pilot projects – greenhouses and agriculture runoff
- Continued dry cleaner and other solvent site cleanups
- Landfills – continued modernization to lined cells, with continued leachate controls

#### Long Term Goals

- TMDL implementation tasks / conservation easement programs
- Storm water – continue Phase I and II work, address coastal priority issues
- Gasoline leak site cleanup
- Oil production legacy cleanup
- Municipal system compliance, including collection systems
- Power plant mitigation implementation
- Landfills – continued modernization to lined cells, with continued leachate controls
- Dry cleaners and other solvent site cleanups
- Expanded use of environmental problem solving approach as warranted by pilot projects

My success in the pursuit and achievement of these goals over the next four years will best be judged by the objective evaluations of the stakeholders, members of the legislature, and the public whose health and safety must be our highest priority. Further, the collective success of the Water Boards' in California will be a function of the magnitude of financial and staff reductions that will result during the anticipated economic downturn and the budget adjustment that will now be required as a result of the most recent elections.

**2. *What do you believe are the most serious problems facing your regional board?***

a. Municipal and Agricultural storm water runoff regulation – Our LID stormwater work is more focused on preventing future degradation of our watersheds.

We have more significant current degradation, however, in many parts of our region, from agricultural operations. Many of our receiving waters suffer from nitrate, pesticides (toxicity), and sediment due to agricultural runoff and percolation to groundwater. Our agricultural order dates to 2004, and in the meantime during my tenure on the Board, we have tracked the on-going implementation of this new regulatory framework. We have directed staff to be strategic in our oversight of this program, to make the most progress feasible. We have used a combination of education and outreach, inspections, monitoring, and enforcement (including administrative civil liabilities) to push this program along. The staff is working on the renewal of our order and we have had discussions at our board meeting with stakeholders, including members of our agricultural advisory group. That group has requested more time to tackle the difficult issue of how to make the program even more effective and staff will be bringing and item to the Board in July to extend the existing order while update work continues. Of course, staff will continue with regulatory oversight to bring about implementation improvements in the meantime until a revised order comes before our board. Recently, two of our staff have become bilingual certified and most of their demand for services has come from our regulation of agricultural enterprises of small farmers. We have invited Environmental Justice Coalition representatives to our July Board meeting to discuss water quality and environmental justice, and one of the biggest issues is the problem of individual wells with high nitrate in agricultural areas. We are proposing measures to attack this problem via source control (long term) and water treatment or alternative water supply.

b. Overpumping of percolated groundwater supplies (from severely overdrafted groundwater basins) by uncooperative and/or irresponsible municipalities that results in groundwater overdrafts, severe seawater intrusion, and aggravation and concentration of pollutants in the remaining, and degraded, groundwater supplies that then pose acute, and often permanent threats, to public water supplies and the public's health and safety. Particularly in overdrafted groundwater basins (Pajaro Valley and Salinas Valley) in Santa Cruz and Monterey Counties, local governmental entities have systematically failed to prohibit new developments that lack "new water supplies" to sustain them. In these overdrafted groundwater basins, the law in California has been clear for over 100 years. . . "there is no surplus groundwater in an overdrafted, non-adjudicated percolated groundwater basin for new appropriators. Ever-increasing extractions of limited and declining percolated groundwater by cities, counties, and even some so-called "water management" agencies, which is necessitated due to their historic failure to produce any new water resources, is causing a grave, and largely irreversible diminishment and degradation of the quality and purity of the groundwater on which our current citizens and our economies depend. This is a huge and ever-increasing problem that local governments seem to lack the knowledge and the "political will" to address.



**3. *How does your board help the public understand the state of water quality in your region? Where should the public go for information on water quality issues, such as beach closures, sewage spills, or the overall quality of water in rivers, streams, and ocean waters in your region?***

The public should come to us for information and we try to do our very best to humbly provide the public with the greatest amount of information that we can. Further, our board coordinates with local governments to insure timely distribution of information throughout our jurisdiction. We obtain understanding of our water quality issues through monitoring our resources. We coordinate our monitoring efforts with all stakeholders: e.g., volunteer monitoring programs, US EPA (e.g., the paired watershed monitoring program), National Estuary Programs, etc., which increases water quality awareness with all stakeholders. Our Board set about the task of creating a regional monitoring program about 15 years ago and today has the only true regional program in the state (the SF Bay program, for example, only deals with the estuary, not the entire region). Our Central Coast Ambient Monitoring Program, CCAMP has been up and running for over ten years and we are constantly improving it. It is instrumental in helping the public to understand the quality of our waters. Our CCAMP site has information on the quality of our waters: right in the middle of our home page is a button called Ambient Monitoring Program, which takes our stakeholders to our CCAMP site: <http://www.ccamp.org/>. It provides the user with a wealth of data on waters throughout our region, both in a quick, at a glance red and green report card format as well as more complex graphs with averages and ranges of data. CCAMP is a program and web site recognized by some of the nation's leading monitoring experts and data users as the best of its kind anywhere. Coastkeeper Alliance wrote recently, "CCAMP has been a model for the rest of the state on how to best leverage limited monitoring funds and create useful information about the health of Central Coast waters." The Department of Fish and Games Office of Spill Prevention and Responses Administrator wrote that, "CCAMP has been collecting valuable data that can be used to improve the health of our watersheds." The Executive Director of the Coastal Watershed Council wrote two years ago, "Over the past nine years, the Coastal Watershed Council has worked closely with CCAMP to involve hundreds of volunteers in this important monitoring work...CCAMP has received high marks in carrying out the intent of the California legislature as passed into law through AB 1429 which addressed monitoring of the State's coastal watersheds, AB 982 which addressed among other issues the need for comprehensive ongoing water quality monitoring, and AB 1070 which calls for improved public access to water quality information. In addition, CCAMP is conducting monitoring following stakeholder recommendations expressed in the AB 982 Advisory Group Report to the State Water Board." "...the Resources Legacy Foundation has funded two projects focused on enhancing monitoring in the Central Coast area...CCAMP data provides the foundation for this project with CCAMP's long-term sites providing the most important source of watershed trend data." At that same time, the Coastal Commission's Water Quality Coordinator, Ross Clark, wrote that, "...the Regional Board's CCAMP program has been a strong partner in our regions efforts to integrate science with land use policy and the restoration of water quality. Regional Board



monitoring staff have participated in a number of the regions multi agency water quality programs including the Monterey Bay Sanctuary Water Quality Protection Program, the Central Coast water Quality Data Synthesis, Analysis and Management Program, and the numerous watershed management and citizen monitoring programs established on the Central Coast."

CCAMP has been invaluable in our current assessment for the 303d impaired waters list. Thanks to CCAMP tools, we submitted 11,000 lines of evidence to the State Board for our region, an order of magnitude greater than other regions.

For sewage spills, we have a link to the statewide database of spills, the Sanitary Sewer Overflow Reduction Program. For beach warnings, we have had a link in the past but we are currently updating our web site. We will again include a link to beach information as part of our site remodel.

**4. *What is your view of the relationship between the state board and your regional board? What type of guidance do you receive from the state board?***

The State Board and our board could have a much closer working relationship. Greater knowledge of our region could improve this. When Region 3 decisions are appealed to the State Board, the State Board sometimes supports Region 3 decisions. The WQCC meetings provide opportunities for coordination and feedback among Board members, and the monthly Management Coordinating Meetings helps coordinate the statewide management team. We also receive guidance from the State Board on how to best deal with the media and therefore communicate with the public, and the State Board provides facilitation services through a skilled staff person. We are using her now for our agricultural advisory panel meetings. Additionally, our relationship with the State Board is reasonably well defined. The State Board sets statewide policy for the regions to follow, and the regional boards deal with region specific and watershed specific cases that come before us. We determine how to apply statewide policy in individual cases. The State Board provides the role of appellate body for those aggrieved by regional boards' actions, and that process has been working better in the last couple of years.

The comments of the Little Hoover Commission have been criticized by some very knowledgeable parties, including former members of the SWRCB. One Board member (with whom staff of the Commission spoke) has said that the Commission staff had already reached conclusions and did not want to hear that knowledgeable former Board members disagreed strongly with their opinions and conclusions.

Finally, it has been my experience that that the public policy experience and enthusiasm of SWRCB members directly influences their relationships with the RWQCB's. If SWRCB members are dynamic, and are allowed to exercise independence in their pursuit of the protection of our water resources, and are permitted to use advocacy in their charge by the Governor and the Legislature to advance the public's knowledge of water quality issues in California, the relationships between the SWRCB and the

RWQCB's would greatly improve without the need for legislative intervention. If SWRCB members are appointed simply to perpetuate the "status quo", it is very unlikely that the Board will ever address issues that are of immediate importance to the Legislature, no matter what legislative changes are made. The need for dynamic solutions to our state's water problems requires dynamic and articulate Board members who are directed to take the needed actions to cure our problems, without political reprisals. Finally, the Water Boards appear to have lacked a dynamic legislative advocate for their financial independence for a long time. To advance the needed protection to our state's water resources, fiscal stability is gravely needed for all of the Water Boards.

**5. *How do you balance the board's focus on the permitting process and the focus on broad policy issues, such as updating basin plans and setting regional priorities? What is the best use of the board's time?***

The best use of the Regional Board's time is to focus on broad policy issues and the establishment of clear and concise regulatory frameworks that will guide the processing of the unique applications and permits that are filed in Central California. The establishment of specific policies by our Board greatly eases the burden on staff in processing permit applications. Our goal for healthy aquatic habitat is leading us to a basin plan amendment for riparian protection. It's an example of focusing on watershed health as a broad policy issue, and then prioritizing a "tool upgrade" like a basin plan amendment. The regional priority drives the task, not the other way around.

The best use of the board's time is to focus on higher order issues, of course. Many of our permits are on our consent agenda because the staff have done their job and done it well. However, when someone is aggrieved, as is often the case in any regulatory or legislative process, they understandably want to "take it to the Board". The Board is then available to hear both sides of any dispute and to make a decision to resolve it. This is the concept of service and attentiveness to the public's concerns by the RWQCBs that remains the greatest achievement of the Porter-Cologne Act. An invaluable benefit of our regional board structure is that we are not a department and our Board meetings are a regular and available community and public forum. Some issues may appear small in the context of our regional priorities, but that little issue may be of huge and life-changing importance for that one person, and our Board gives each and every individual an opportunity to seek resolution. Our meetings tend to be long (frequently two long days) because we do listen to our stakeholders and, more importantly, to the general public. We listen, we judge based on our broad experiences, we ask follow up questions, and we ask for staff's recommendations to resolve the issues. The public that appears before us knows who is making the decisions that affect their lives. Our Board members take our responsibilities seriously and with solemn concern for the welfare of the citizens of our state. Our forum's benefit and importance to those citizens who come before us seeking wise decisions from people familiar with the unique circumstances of our region cannot be overstated.



**6. *How do the state board and your regional board staff assist you to better understand some of the complex issues before you? Do you have any suggestions on how the state water board's staff might better assist you?***

The State Board staff currently consists of fewer people than were employed in 1999. Further, a vast number of senior State Board staff members have taken retirement in the last five years due to increased work loads, financial uncertainties, and diminishing staff positions. This "brain drain" at the State Board level demonstrates itself to Regional Board members when the newer, although often very bright; SWRCB staff members lack even basic knowledge about ongoing issues affecting our Regional Board. Due to this problem, we rely heavily on our Regional staff that has not suffered the magnitude of personnel changes that the Sacramento office has faced.

As a result, one of the keys to the effective transference of information to our Board members is our staff reports that stand on their own and explain complexities (in plain English) of the difficult and often unique issues that we must address on the Central Coast. Our Board has placed great importance on the quality of these reports, and our staff has clearly risen to our expectations.

Finally, it should be noted that through the Water Quality Coordinating Committee meetings (WQCC), State Board staff assists the board members twice a year with face to face briefings and discussions that are very helpful in keeping abreast of evolving legislative issues. If we have requests for assistance or suggestions, State Board staff has tried to be responsive. As to suggestions regarding the SWRCB, please see my comments above.

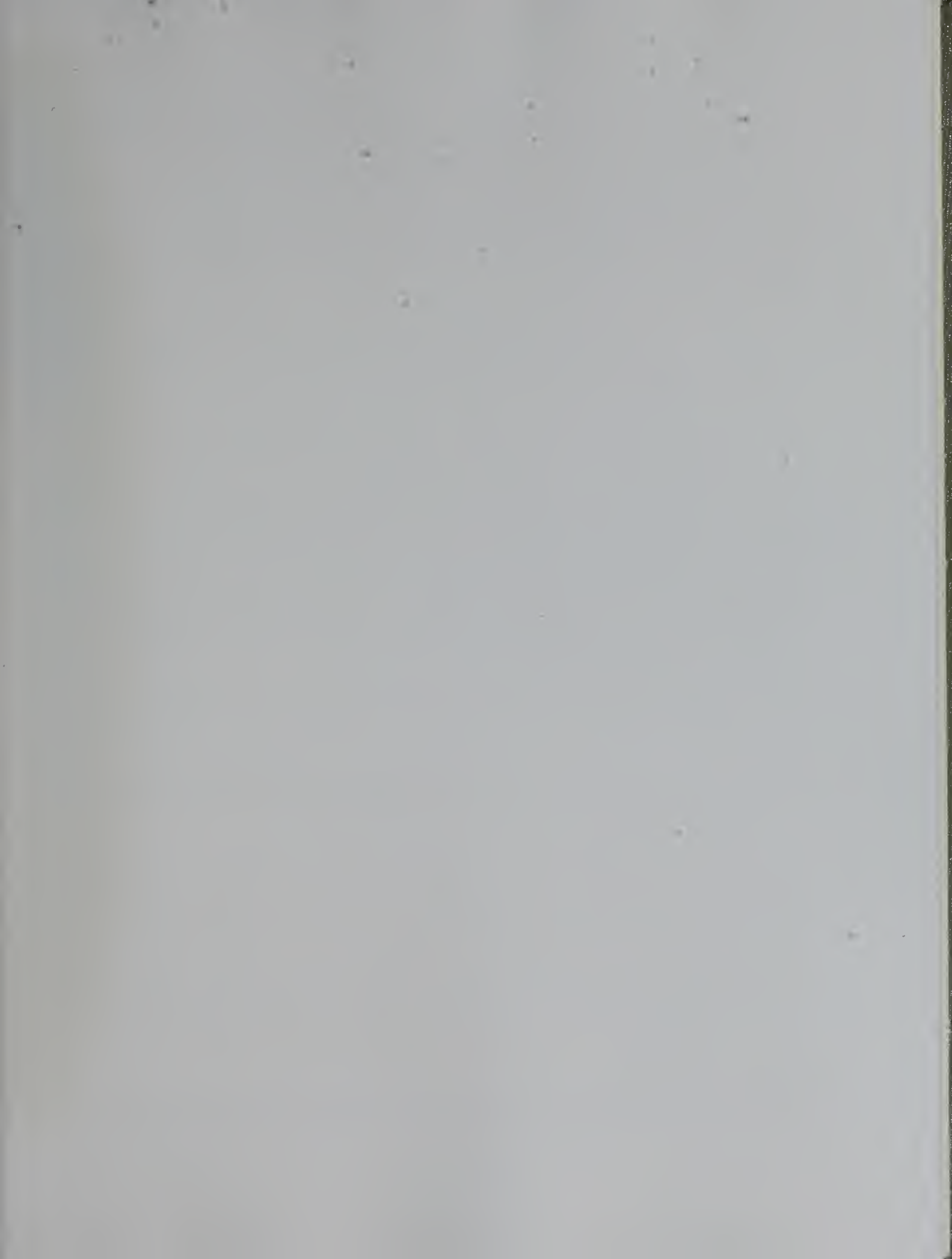
**7. *What is your view on how your board should enforce water quality laws? When are fines and penalties appropriate, and when are more informal actions necessary?***

The three principal objectives of enforcement should be to: 1) generate knowledge and respect in the general community for the regulations that have been adopted to protect their water resources, and their health and safety; 2) motivate the wrongful discharger to return to compliance; and 3) deter that discharger and others from committing additional violations. Water Board enforcement should be designed to get the maximum benefit in those three areas from every enforcement action. We deal with a very wide range of types of violations, from very minor to very serious. Lumping them all together and then comparing enforcement responses can be misleading, if not naive. Most alleged violations deserve at least an informal response. For minor violations, a notice of violation may be sufficient to bring the discharger into compliance. Even for major violations, we usually start the enforcement process with informal actions such as Notices of Violations (NOVs) or phone calls.

Penalties are an effective enforcement tool that regional boards should not hesitate to use when warranted. They recover the benefit (and more) that the discharger may have













gained by the noncompliance, and also provide a highly visible deterrence to other dischargers and to the public in general. Penalties are appropriate for major violations and for dischargers with records of recurring problems, or those who are willfully recalcitrant. However, in the past we have also used minor penalty actions for relatively minor violations, such as late reporting, to communicate to all dischargers that we will not tolerate willful, malevolent or chronically negligent violations. We found that our compliance rate increased dramatically as a result. As with the application of any law, firm but fair and compassionate actions by our board must be the cornerstone of our conduct.

**8. *How do you prioritize your enforcement activities, given current budget constraints?***

Our Board has addressed this issue "head on". Every violation gets reviewed by our regional enforcement staff. Using criteria from the current enforcement policy, we evaluate priority violations further for possible formal enforcement. MMP violations are not prioritized since we are required to respond regardless. Violations deemed "Priority" according to the policy are reviewed and prioritized considering factors such as the nature, extent, and severity of the violation, the toxicity and environmental damage caused by a spill or discharge, the past record of the discharger, the discharger's efforts to mitigate effects or damage, and economic benefit. Enforcement staff then initiates actions against as many of the violators, starting with the highest priority, as we have resources to pursue. We advertise our enforcement actions via news releases to try to leverage our actions to encourage others' compliance. In every one of our agenda packages, we have an enforcement report, and we typically ask staff about certain cases in that report, which is one way of seeing the big picture of violations and enforcement responses.

**9. *Without a current formal state board policy on enforcement, how does your board determine it is consistent in its enforcement practices with other regional boards?***

The State Board does have an Enforcement Policy. This older policy, as far as I know, has not been rescinded, is still in effect, and we use it as a guide in our enforcement actions. Our enforcement staff is actively involved in the statewide enforcement roundtable. The roundtable for our senior staff and enforcement staff regularly discusses how each region takes enforcement action. The roundtable has been working with the state board office of enforcement on the updated policy, which has led to many discussions of consistency. We also receive summaries (e.g., Water Board news releases) of some of the more significant enforcement actions throughout the state, which gives us a bigger picture view of what the other regions are doing in the enforcement arena.

Moreover, as I indicated above, it is naïve, particularly when considering the potential consequences of seeking criminal prosecutions for violations, to believe that slavish

enforcement of "consistent" state-wide practices would be appropriate or even meet the requirements of laws.

Regarding the low percentage of completed enforcement actions, our staff reports:

- a. We do a really good job, probably better than other regions, of identifying violations – that is, we may simply appear to have a higher number of violations because of better reporting. This is due to our cover sheet that dischargers use to self-report violations.
- b. We do a really good job, again probably better than other regions, of making sure all violations are in CIWQS (our permit database). If regions only enter violations that they've responded to, of course the response percentage is very high.
- c. We have been in the process of switching to a paperless office system, which is an endeavor that has huge potential for efficiency increases and a more sustainable way of operating. Of course, we have bumps in that road. One of the problems is that we may not be catching/recording all of the enforcement actions recently, so our percentage would appear to be lower than reality.

Our enforcement staff is aggressive because they have the support of our Board and we enforce on a significant percentage of violations in our region.

**10. *How will the board deal with the expiration of the order for irrigated agricultural lands this July? If the board extends the current order, will it be strengthened in any manner pending the development of new language?***

Our Board must conduct hearings pursuant to our adopted administrative regulations before any modifications to any order can be sustained in court. Our Executive Officer (EO) presented a status report on the Agricultural Order update at our February meeting. Several stakeholders spoke, and a few of them argued vociferously that the scope of the revisions should be limited. However, our EO stated that it is appropriate to present all options to the Board, covering all water quality aspects of the irrigated agriculture issue. In this manner, the update can be as strong and effective as possible with a goal of improving our regulation of water quality issues to make as much progress as is possible, and still be reasonable with protecting and improving our receiving waters that are affected by agricultural discharges. Our Chair directed and indicated this is the appropriate approach – to bring the full range of options to the Board for consideration (that's the norm with any issue that comes before our Regional Board). When the staff brings these issues to the Board in July (which we understand will be an extension for only a finite period of time as staff continues its work with the many stakeholders), the Board will consider its options and only make a decision after conducting a public hearing from all those who address the Board.

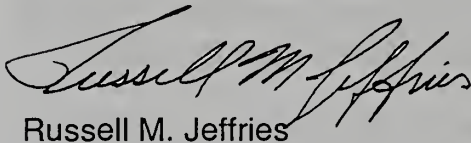
**11. *What types of schedules for compliance does the board envision with the new language regulating agricultural discharge?***



As I have indicated above, the law mandates and requires that our Board can only make decisions on the order's content after a full and complete public hearing has been properly noticed and conducted so that comments from all interested parties and stakeholders have been allowed and fairly and impartially considered. However, our approach with all such issues is typically to try to establish timelines that are as aggressive as possible, yet reasonable considering the nature of the problem, and the ability of the dischargers to resolve the problems.

I hope that these answers have been responsive to your questions. Should you wish any other information, I will be happy to respond. It is a great honor for me to serve on the Regional Board. Please be assured that I take my duties and responsibilities with the utmost humility and concern for the protection of the waters of the state of California.

Most Respectfully,

A handwritten signature in cursive script, reading "Russell M. Jeffries". The signature is written in dark ink and is positioned above the printed name.

Russell M. Jeffries

Katherine J. Hart

Katherine Hart  
Responses  
COGCB, Central  
Valley Region

May 26, 2009

VIA U.S. AND ELECTRONIC MAIL

Nettie Sabelhaus  
Senate Rules Committee Appointments Director  
Room 420, State Capitol  
Sacramento, CA 95814

**Senate Rules Committee**

JUN 02 2009

**Appointments**

Re: Responses to Questions from Senate Rules Committee

Dear Ms. Sabelhaus:

My responses to Senator Steinberg's questions dated May 4, 2009, are provided below following the requisite question.

**Statement of Goals**

1. *Since 2005 when you were first appointed, what have been your most significant accomplishments as a member of the Central Valley Regional Water Quality Control Board? What do you hope to accomplish during your current tenure as a member of the board? What goals do you have for the board, and how will you accomplish them? How will you measure your success?*

The most significant accomplishment since I was first appointed to the Board was the participation in the hiring of Pamela Creedon as Executive Officer of Region 5. After interviewing a number of qualified candidates, Pamela stood out as not only qualified, but personally capable of managing not only Board customers, but Board Staff. With Pamela's assistance, the Board has seen a positive change in the attitude of Board Staff, dischargers and concerned citizens. For instance, a number of Region 5 customers indicate on a regular basis that Staff is responsive and helpful, whereas before, that was not necessarily the case.

Since being elected Board Vice-Chair in 2006, I have worked well with Karl Longley (our Board Chair since the same time) in helping to manage Board meetings and hearings to ensure the process we provide is open and fair to all parties. I have also emphasized the need for our Board to consider Supplemental Environmental Projects or SEPs in the communities impacted by water quality violations.

In terms of enforcement, Region 5 has done an admirable job with the meager funds we are provided given the size of our region compared to other regions (Region 5 constitutes 45% of the State's area). The first meeting I ever attended as a Board Member involved the administrative hearing on the Hilmar Cheese case. Against the urging of Hilmar Cheese, the Board issued the most extensive fine in the history of the Water Boards - \$4,000,000 against Hilmar Cheese for its water quality violations over the years.

With respect to regulation of agriculture and dairies, I participated in the Board's consideration and adoption of the first of its kind Irrigated Lands Program to monitor pesticides in surface waters, as well as and General WDRs for 1,600 plus dairies previously unregulated in Region 5, to monitor nitrates and nitrites, among other constituents, in the groundwater.

I am currently on the Board's Delta subcommittee, which is focusing on a number of important issues in Region 5. In particular, the Board is currently processing a TMDL for methylmercury for the Delta. In the future, I look forward to the consideration this TMDL, among others, and desperately hope the Board can find the funding to amend its three Basin Plans, all of which are over 30 years old and in dire need of updating due to the environmental changes that have occurred over time.

2. *What do you believe are the most serious problems facing your regional board?*

There are several. However, in an effort to be brief, I'll include only my top four concerns.

- The decline of the Delta, which has been occurring for decades. Most unfortunately, there has been a lack of leadership at every governmental level and an inability to command the key interested parties to compromise for the good of the Delta and the people of California.
- The ever-increasing duty to procure, adopt, and enforce new water quality regulations mandated by the state and federal governments without any corresponding funding to hire and/or retain qualified and experienced Staff, conduct studies, obtain necessary equipment, and carry out enforcement.
- Lack of public knowledge regarding the significance of water, water quality and its effect on the environment, discharges, and communities all over California, which stems from a lack of environmental education.
- Salt and mercury contamination – problems which will require costly and unpopular solutions for which no “quick fix” exists, and for which no one person, group or governmental entity (perhaps excepting the Region 5 Board) has taken the lead on resolving – despite the fact both issues are (or should be) of statewide concern.



3. *How does your board help the public understand the state of water quality in your region? Where should the public go for information on water quality issues, such as sewage spills, or the overall quality of water in rivers, streams, and the Sacramento-San Joaquin Delta in your region?*

Our website is user friendly and very informative. Additionally, members of the public can call or visit the regional board offices in Fresno, Sacramento or Redding and will be directed to a Staff member knowledgeable on the applicable issue. Board Staff is readily available and frequently respond to press inquiries regarding water quality issues of interest.

#### **State and Regional Board Roles**

The state and regional boards were created nearly four decades ago. In January 2009 the Little Hoover Commission issued a report on improving the performance of the state's water boards. One of the findings was that the relationship between the state and regional boards is not well-defined. This has led, they believe, to inconsistencies and inefficiencies among boards, an inability to set statewide priorities, and a lack of focus by the state board on holding regional boards accountable for clean water outcomes.

The report also found that there is little focus on clean water outcomes or accountability. Regional boards admit they have difficulty in analyzing watersheds to determine whether their programs are protecting and improving water quality. Regional water boards' focus is more on issuing permits and determining whether dischargers abide by permits than determining if the water is actually getting cleaner.

Another issue that has been raised in the past, and also discussed in the recent commission report, is that many of the issues board members have to deal with are very technical, and a number of board members are, basically, volunteers and do not have such formal technical experience.

4. *What is your view of the relationship between the state board and your regional board? What type of guidance do you receive from the state board?*

Originally, I understood the State Board to be the "maker of all policy" on key water supply and water quality issues. However, over the years, I have sadly come to see the State Board as mostly an appeals board for the decisions regional boards make, and purse strings (since our budget is determined by the State Board). While it would be helpful for the State Board to take the lead on policy issues concerning mercury, anti-degradation analyses, and other pertinent issues, this has not occurred. And, because Region 5 is severely impacted by these issues, the Region 5 Board has been required to move forward with regulation without the benefit of the State Board's input, and often funding. For instance, mercury contamination of Central Valley watersheds and the Delta is widely accepted to be predominantly a "legacy" problem associated with historic mining in the Sierra Foothills. To solve the

mercury problems in the Delta will require creativity including, for example, an "offset" or "trading" program. Several years ago, the State Board actually indicated it would develop an offset policy, but no such policy has ever been prepared or proposed. I will note, however, that the State Board has joined the Central Valley Board in working on the CV-SALTS project, as discussed below.

5. *How do you balance the board's focus on the permitting process and the focus on broad policy issues, such as updating basin plans and setting regional priorities? What is the best use of the board's time?*

The Board is tasked with doing a lot more than permitting, updating basin plans and setting regional priorities. Balancing the plethora of Board responsibilities is challenging and frustrating, especially given the severe budget cuts the Board has experienced over the past few years. Our Staff is asked to do more permitting, enforcement, planning, and the like, with fewer resources, which is essentially impossible. While permitting is very important, issuing new permits with severely outdated basin plans is tantamount to putting the proverbial cart before the horse. To me, the Board's top priority should be updating its basin plans since they are like a city or county's general plan – the basin plans are the bible of water quality, and they set policy. Unfortunately, permitting and enforcement must be pursued in order to ensure we are in compliance with the Porter-Cologne and Clean Water Acts, and key funding for studies required to do Basin Plan updates just does not exist. As a result, the Board attempts to prioritize the things it can afford (mainly permitting and enforcement) or that it must comply with (e.g., consent decrees on TMDLs), while key policy determinations linger.

6. *How do the state board and your regional board staff assist you to better understand some of the complex issues before you? Do you have any suggestions on how the state water board's staff might better assist you?*

State and regional board staff, including Ms. Creedon and our wonderful legal counsel, is extremely helpful in understanding complex issues. They provide legal and factual assistance when requested. I would suggest that the Office of Chief Counsel consider a recommendation I made when I was first appointed. That is, each newly appointed board member of either the state or regional boards should be provided with a packet of information on the myriad of laws, policies and regulations we are expected to know and apply in our positions as board members. For instance, each new board member should be provided with a hard copy of the Porter-Cologne and Clean Water Acts, a copy of the Bagley Keene Act and the Office of Chief Counsel's most recent memo on ex parte communications, and flow charts on how TMDLs, NPDES, WDRs, and other significant processes work. Then, at WQCC (the bi-annual Water Quality Coordinating Committee) meetings, there should be workshops of various areas of interest.

## Enforcement

In 2005 the Office of the Secretary of Cal/EPA reported to the Legislature on environmental enforcement and suggested that the state and regional water boards were among the worst agencies in enforcing the law. In 2008 the state board, in its *Strategic Plan 2008-2012*, said it would adopt an updated water quality enforcement policy by December 2008. That enforcement policy will now not be adopted until mid to late 2009. On January 1, 2009, the state board published its 2008 enforcement report. Among other things, it showed the number of violations that were imposed by regional boards compared to completed enforcement actions. For the four-year period from 2005 through 2008, the Central Valley regional water board scored a low of 69 percent in 2006 and a high of 75 percent in 2005 in wastewater violations compared to completed enforcement actions. This is above the average of the nine regional boards. For stormwater violations compared to completed enforcement actions, the board scored a low of 95 percent in 2007 and a high of 99 percent in 2006. This is slightly above the average of the nine regional boards.

In February 2009 the board's executive officer's report showed the backlog of 6,223 mandatory minimum penalties enforcement actions, that had not been resolved in the fourth quarter of 2007, had been reduced to 213 one year later.

7. *What is your view on how your board should enforce water quality laws? When are fines and penalties appropriate, and when are more informal actions necessary?*

Water laws should be enforced strictly. All factors permitted to be taken into account under the law should be considered. At all times, the laws should be applied equally to dischargers. Board Staff carries out enforcement as required by state and federal law. Actions are commenced with Notices of Violations, and escalate from there if compliance is not achieved within applicable time frames provided.

Most of our enforcement actions are informal and have been effective in achieving compliance. These actions require less staff resources. Assessing fines is one of our most formal and time intensive enforcement actions to take. Historically, fines were reserved for recalcitrant violators or for the very egregious noncompliance events (e.g., spills that cause a fish kill or other significantly environmental or human health impacts). Changes to the Water Code created mandatory minimum penalties or "MMPs", and changed this dynamic. The Code now specifies that violations must be assessed fines *regardless* of the environmental impacts. Most violations are due to ignorance and do not result in significant impairment to water quality. While MMPs have resulted in better compliance due to more awareness, processing MMPs is extremely time consuming and staff-intensive. Unfortunately, the unintended consequence of MMPs has been to divert valuable and limited staff resources away from taking discretionary formal enforcement. In sum, the law requires us to use one of our most heavy-handed and very effective administrative enforcement actions (the imposition of fines) for events we would typically handle just as effectively with an informal enforcement action.



8. *Without a current formal state board policy on enforcement, how does your board determine it is consistent in its enforcement practices with other regional boards?*

The State Water Board currently has a statewide Enforcement Policy that was adopted in 2002. The intent of this Policy is stated as follows:

It is the policy of the SWRCB that the Boards shall strive to be fair, firm and consistent in taking enforcement actions throughout the State, while recognizing the individual facts of each case. The primary goal of this Enforcement Policy is to create a framework for identifying and investigating instances of noncompliance, for taking enforcement actions that are appropriate in relation to the nature and severity of the violation, and for prioritizing enforcement resources to achieve maximum environmental benefits. Toward that end, it is the intent of the SWRCB that the RWQCBs operate within the framework provided by this Policy.

The State Board is currently revising its 2002 policy. The 2009 revision will be considered by the State Board at its June meeting. The policy has always created a framework to improve consistency between the regional boards. Many believe the Boards are not consistent because of the variability on the amounts of the liabilities assessed. However, because each action is case specific, it is very difficult to establish a one-size-fits all approach. Both the current policy and revised policy establish a violation prioritization methodology that is followed by all of the Boards. This is needed because there simply are not enough resources to address every single violation. The revised budget takes this one step further and is proposing a process for the Boards to follow to establish a liability amount. If approved this will help, but will not ensure consistency, since the process is still subjective and involves different staff and managers with different opinions and ideas of severity of violations.

Another way the Boards are better addressing consistency is through the creation of the Office of Enforcement at the State Board. Each regional board has an enforcement coordinator that meets with State Board Office of Enforcement monthly. I understand from Region 5 staff that these meetings include other enforcement staff at the Board offices.

Region 5 has established a Compliance and Enforcement Section in the Sacramento office, as well as a Compliance and Enforcement Unit in the Fresno office. We are evaluating how we can do a similar thing in Redding, but that office may be too small. We also have dedicated management to enforcement. Right now our EO serves as the lead prosecutor. Region 5 Staff has internal enforcement meetings on a monthly basis.

Having management and staff dedicated to enforcement in our offices greatly improves our consistency within the Central Valley and helps improve our consistency with the other Boards as well.

9. *How do you prioritize your enforcement activities given current budget constraints?*

See the answer to Question 8. Region 5 Staff use an internal roundtable group to establish the priorities for enforcement. It is my understanding that Region 5 Staff will begin working with Reed Sato, the Director of Office of Enforcement at the State Board, to help in prioritizing Region 5's enforcement actions. Further, our EO will be scheduling a time for her and a few Staff to travel to San Diego to meet with Staff there to learn how Region 5 can model its prioritization program after theirs, since it has been very effective.

10. *Does your board have any lessons for other regional boards on the way you resolved the 6,000-plus mandatory minimum penalties enforcement actions?*

Put a determined and focused staff member in charge of them and prioritize your backlog. Shortly after we initiated our efforts, Dorothy Rice created a statewide MMP Initiative to reduce the backlog statewide. This helped Region 5 reinforce our focus and efforts. Board Staff indicates they achieved this by: 1) cleaning our database to make sure reported data was accurate; 2) creating a record of violations that was reviewed by Staff and the discharger to make sure the data and calculated violations were accurate and correct and resolved all differences before the MMP was issued.

Importantly, it should be noted that our MMP initiative came with a price. The Region 5 Board has not been able to do as much discretionary enforcement, although we have still done quite a bit. Members of the public and their elected representatives need to understand that all regional boards have undergone significant budget cuts over the past years. As a result, enforcement gets prioritized. Each regional board must make a policy decision on what type(s) of enforcement it wants to pursue. This is true for many pertinent issues at the regional boards (e.g., funding TMDLs to funding Basin Plan Amendments).

#### **Irrigated Agricultural Lands—Waiver of Discharge Requirements**

In 2003 the board adopted a conditional waiver of waste discharge requirements for discharges from irrigated agricultural lands. As part of the 2003 waiver program, the board directed Staff to prepare an Environmental Impact Report for a long-term irrigated lands regulatory program. The 2003 interim waiver program was set to expire in 2006. In 2006 the board adopted a new conditional waiver for discharges from irrigated agricultural lands that continued the 2003 interim program until 2011.

11. *How is your board progressing in developing a long-term irrigated lands regulatory program for agriculture? Will the program be ready by the time the current conditional waiver expires in 2011?*

The Board is progressing well. The Board has formed a facilitated stakeholder process to develop the long-term program alternatives to be considered by the Board. Sacramento State University's Center for Collaborative Policy is facilitating the stakeholder process. The stakeholder group is comprised of representatives from the agricultural industry, environmental justice community, the Native American community, and the California Sport Fishing Protection Alliance. Our EO informs me Staff is on schedule to have the Board consider the alternatives at its December 2009 meeting so the new regulatory tool is presented to the State Water Board by 2011 as planned.

12. *Last year, agricultural interests objected to the addition of the regulation of groundwater in addition to surface waters in the review process. Is your staff still reviewing the issues of contamination to both groundwater and surface waters?*

Yes.

### **Salinity Management in the Central Valley**

One of the most pressing problems in the central valley is the buildup of salt in both surface water and groundwater. While some salts occur naturally, others are discharged into water as a result of food processing—everything from tomatoes to cheese, fertilizer application, and wastewater treatment. In high concentrations, salt can kill crops and cause deformities in animals, among other problems. The Central Valley regional board is developing a salinity management plan that will take several years to finalize.

On March 20, 2009, U.C. Davis released a report, *Final Report on the Economic Impacts of Central Valley Salinity*, which estimated that the state could see a reduction of goods and services of between \$5 billion and \$8.7 billion, and a loss of jobs of between 34,000 and 64,000, if salinity continues to increase at current rates in the central valley.

13. *How is the development of the board's salinity management plan proceeding? When will the plan be ready for adoption?*

First, I'd like to clarify that the UC Davis report estimated the stated losses *only if* there are no changes in current policy, which in my mind is highly unlikely given the clear understanding of the dire consequences if we don't change current policy.

With that said, the Central Valley and State Boards have initiated the Central Valley Salinity Alternatives for Long-Term Sustainability or CV-SALTS program, which is a comprehensive basin planning effort aimed at developing and implementing a comprehensive salinity and nitrate management program. A policy group and committees



of the policy group have been formed to work with Staff and interested stakeholders to prepare a regional salt and nitrate management plan for the Central Valley and Delta. To the State Board's credit, it has provided the program with significant funding.

Based on the websites identified below, it appears a finalized and environmentally studied program would be proposed to the Board for consideration in or about October 2014. Given the CV-SALTS program is stakeholder-funded process, much of the progress will depend on the available funding.

Further detailed information on the CV-SALTS program can be found at [www.swreb.ca.gov/rwqcb5/water\\_issues/salinity/index.shtml](http://www.swreb.ca.gov/rwqcb5/water_issues/salinity/index.shtml) and [cvsalinity.org](http://cvsalinity.org).

14. *How will the board incorporate the findings of the U.C. Davis report on the economic impact of salinity in the Central Valley into the salinity management plan?*

The Board set up a Policy Group and its committees to work out the details of the plan and provide the Board with a complete plan for consideration. I expect the Policy Group will incorporate the information from the UC Davis study into the management plan as appropriate and our Board will consider that at the time the proposed plan comes before us for consideration.

#### **Dairy Pollution**

There are over 1,500 dairies in the Central Valley that are contributing to both air and water pollution. While the method of flushing dairy waste into lagoons has some benefits for air pollution, it increases the leaching of pollutants into the groundwater. Last October, Karl Longley, chair of your board, told a meeting of regional and state board members the Central Valley regional water board would have to step up its water quality monitoring because lagoons contribute nutrients to groundwater.

15. *What type of increased monitoring for dairy groundwater pollution is expected? When will it be in place?*

The General Dairy Order (Order) was issued by the Central Valley Board in May 2007. It was and is the first comprehensive water quality regulatory program to be issued to the dairy industry in the Central Valley. It is a comprehensive order that regulates discharge of waste from nearly all of the 1600 existing dairies in the Central Valley. The Order focuses on groundwater by prohibiting the discharge of dairy waste to surface waters. It protects groundwater by requiring comprehensive waste and nutrient management plans to be developed, and establishes an extensive monitoring and reporting program. The Order was issued pursuant to the State's Porter-Cologne Act and is more protective of surface water and ground water quality than the federal regulations for confined animal feeding operations. To be very clear, the Order prohibits the discharge of animal waste to surface waters from the dairies and associated croplands.

Through the Order, the Board developed a regulatory program that was aggressive yet achievable not only for the industry, but also for regulatory Staff required to monitor and enforce the program and for the support system (labs, consultants, etc.) used by the dairy industry to ensure compliance with the Order. Implementation and compliance with the Order was done in a phased approach with the early phase focusing on the largest sources of nitrates to groundwater and implementing changes to waste and nutrient practices at each dairy to significantly reduce or eliminate over-application of waste and nutrients to land.

Cropland is usually the largest contributing source of nitrates to groundwater. Therefore, the early phase of the Order focuses on: 1) assessing a dairy in terms of waste generation: practices and disposal capacity; 2) educating the dairy industry on proper practices and how to comply with the Order; 3) developing and implementing nutrient management plans to significantly reduce the loading of nitrates to crop lands by requiring wastes not to be applied in quantities that exceed the nutrient uptake of the plants; 4) conducting extensive field and crop monitoring to ensure the nutrient management plan is effective; and 5) developing and implementing a waste management plan that will manage and protect waters from wastes generated in the processing areas of a dairy. In addition to addressing crop land and processing areas in the early phase, the Order establishes requirements for existing dairy lagoons and directs dairies to monitor any discharges to surface water if and when they occur, and groundwater.

As part of the waste management evaluation, the Order requires dairies to provide an engineering evaluation of existing lagoons and propose and implement approved remedial measures when groundwater monitoring demonstrates that the existing lagoon has adversely impacted groundwater quality. In addition, all existing lagoons that are expanded or any new lagoons constructed at an existing dairy must meet very stringent design criteria established in the Order.

Groundwater monitoring is the primary mechanism used by the Board to determine if an existing lagoon has impacted groundwater quality. However, the Board found that it was impractical to require all 1600 existing dairies to install monitoring wells within a short time period due to the limited number of professionals available to design and install groundwater monitoring systems and the limited Staff to review monitoring well installation and sampling plans. The Board felt it was more prudent to prioritize and phase its efforts to determine the existing groundwater conditions at each dairy within the shortest time period. To do this the Order required each dairy to sample all domestic and agricultural wells present at the dairy and discharges from any subsurface (tile) drains.

To determine which dairies should be required to install monitoring wells, the Order established a decision matrix. The prioritization scheme evaluates 10 different factors including: concentration of nitrate in data collected; proximity of the lagoon to private or public drinking water wells; the number of crops grown per year at a site; other environmental monitoring program data that may be available; and other factors. The

Order anticipated the Board will phase in groundwater monitoring at approximately 100 to 200 dairies per year.

The first submittal of groundwater data was required to be submitted in a report due by July 1, 2008. The Board received over 95 percent of all the reports due on that date. Of that percentage, 90 percent of all the dairies with groundwater wells and tile drains submitted groundwater monitoring data. Board Staff is pursuing enforcement against sites that have failed to provide information required by the Order. The next annual report with additional groundwater data is required to be submitted on July 1, 2009. Staff has been compiling this information to determine which dairies will be required to install monitoring wells.

The Board has not yet required the first set of dairies to install monitoring wells. At the hearing to adopt the Order all interested and designated parties testified to the Board expressing concerns regarding the ground water monitoring program being proposed in the Order. Depending on the individual testifying, the monitoring program was either too rigorous, or not strict enough. To avoid delaying adoption of the Order, the Board adopted the MRP as proposed to ensure the monitoring requirements were initiated, including the sampling of source and irrigation wells and directed Staff to reconvene a stakeholder group to propose a revised monitoring plan. Board Staff has been through several meetings with the stakeholders regarding possible alternatives to groundwater monitoring at dairies, yet no viable alternative has been established. In the absence of a viable alternative, the Board will continue to implement the monitoring plan as adopted by it in 2007 and plans to issue directives to the first 100 to 200 dairies that must conduct monitoring by January 1, 2010.

Some have been critical of the Board's apparent "lack" of action regarding the dairy program. Region 5 currently has 16 Staff situated in three offices to administer, monitor and enforce nearly 1600 existing dairies. I understand from Pamela Creedon that in addition to administration of the current General Order, Staff has also been issuing individual dairy orders, drafting a general NPDES Permit for dairies subject to the federal rules (there are very few), and inspecting and enforcing the requirements of the General Order. In 2008 Region 5 Staff accomplished the following:

- Drafted 11 Individual Orders, all adopted by the Board
- Conducted 150 site inspections
- Issued 15 Notices of Violation
- Issued three Administrative Civil Liability complaints, which have all been settled

Additionally, Staff advises me that compliance with the current General Order has been excellent. To date the compliance has been exceptional for such a new regulatory program:

- Over 99% of reports due in December 2007 were received on time
- Over 95% of reports due in July 2008 were received on time
- Over 98% of the reports due in December 2008 were received on time



In addition to administering and enforcing the General Order requirements, Staff has been working with CalEPA and California Department of Food and Agriculture (CDFA) on developing permits for methane digesters. Digesters could be an effective tool to dispose of dairy wastes in a manner that will protect both air and water quality and will generate renewable energy for use on and off dairy farms.

Also Staff has assembled a Technical Advisory Committee (TAC) to assist it in evaluating compliance with the General Order, and provide information to agencies responsible for food safety. The TAC contains representatives from the CDFA, California Department of Public Health, State Water Resources Control Board, and the Western Institute for Food Safety and Security at UC Davis. Goals for the TAC include working with farmers and food processors to develop best management practices for use of dairy wastes and educate dischargers to minimize risks.

In sum, the Region 5 Board and its Staff are committed to implementing the General Order and to protecting surface and ground waters of the State.

16. *How does the board plan to deal with the issue of water pollution by dairies? What type of new technologies, like digesters, is the board looking at? How can your board work with the local air pollution control district to make sure that the reduction of one type of pollution—air vs. water—doesn't increase another?*

The General Order addresses the historic practice of over applying wastes to land. Implementation of an effective Nutrient Management Plan that will protect and help restore groundwater. Moreover, the Order prohibits of dairy wastes to our surface waters. The Board recognizes it must continue to work with sister state and federal agencies and industry to find alternative solutions for dairy wastes. As noted above, our early efforts have been directed towards digesters. We focused on digesters because of competing regulations between protecting air quality and water quality. Many practices that could be implemented at a dairy to protect air are the very practices we are trying to address in the Order. For instances, the use of waters in flushing stalls and the lagoons are effective in protecting air quality, yet may be harmful to groundwater. Methane digesters present a potential solution for this dilemma; however, waste streams from the digesters must be handled and the wastes still contain constituents of concerns - salts and nitrates. Some digesters simply involve covering existing lagoons. This is the least efficient form of a digester but it does not involve receiving a regulatory permit from our Board since it simply covers an existing lagoon. The existing threat to groundwater exists but adding a cover does not make it any worse of a problem. The concept of co-digestion of dairy wastes with other "green" wastes is an option our Board Staff would like to pursue. This would include the construction of above ground digesters (potential to eliminate lagoons) and would mix the manure with food processing or production wastes. This would boost the energy generated by the digester and could produce sufficient gas or energy that it could become a revenue stream. To build an above-ground unit does require a permit from our board. Staff

Ms. Nettie Sablehaus

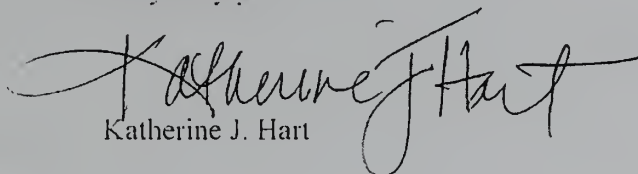
May 26, 2009

Page 13

is looking into developing a region-wide general permit for above-ground dairy co-digestion units. To issue a permit we must fully comply with CEQA and the State Board's Anti-degradation Policy.

Thank you for the opportunity to respond to Senator Steinberg's inquiries. If you should need any additional information or have supplemental questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in cursive script, reading "Katherine J. Hart". The signature is fluid and elegant, with a large initial "K" and a long, sweeping underline.

Katherine J. Hart





Thomas Davis  
Responses  
WQCB - Colorado  
River

June 2, 2009

Senator Darrell Steinberg  
Chairman, Senate Rules Committee

ATTN: Nettie Sabellhaus, Rules Committee  
Appointments Director  
State Capitol  
Room 420  
Sacramento, CA 95814-4900

Senate Rules Committee

JUN 08 2009

Appointments

Dear Senator Steinberg:

Please find below my responses to the questions related to the Senate Rules Committee Confirmation Hearing for my reappointment as a member of the Colorado River Basin Regional Water Quality Control Board on July 8, 2009. Also attached per your request is an updated form 700, Statement of Economic Interest.

**Statement of Goals:**

1. Since you were first appointed, what have been your most significant accomplishments as a member of the Colorado River Basin Regional Water Quality Control Board? What do you hope to accomplish during your current tenure as a member of the board? How will you measure your success?

*My most significant accomplishments to date have been to encourage and assist the Regional Water Quality Board staff to seek practical solutions to potential violations and/or judicial matters. Also, I believe the entire Board has worked diligently to protect and monitor water quality impacts to the New River, Salton Sea and the Basin's Groundwater. During my upcoming tenure I hope to see greater enhancement and protection of groundwater resources through creative treatment processes, conversion of septic systems and other means. Also, I will continue to seek improvement to the Salton Sea water quality. Success will be measured through cooperative programs and agreements like the Yucca Valley/Hi Desert MOA and implementation of the objectives of the Colorado River Basin Plan.*

2. What do you believe are the most serious problems facing your regional board?

*The Colorado River Basin is critically dependent upon groundwater and of course, the Colorado River. My primary concern is the threat to the groundwater basin water quality from both pollutants and inferior re-charge.*

3. How does your board help the public understand the state of water quality in your region? Where should the public go for information on water quality issues, such as sewage spills or the overall quality of water in rivers and streams?

*The staff provides regular water quality updates during the board meetings and other public outreach events as well as providing extensive information through its website. It is my understanding that from time to time, staff holds public workshops on various specific issues.*

*I have found that, first, accessing the Regional Board website is an excellent information source. Direct contact with the staff at their Palm Desert office is also highly advisable. I have found our Regional Board staff to be very helpful in providing public information. Staff also participates in various public outreach and educational events.*

4. Your board posted the executive officer's report, the report used to inform board members and the public on what is happening on issues of concern to the board, on the board's Web site from 2000 to September 2005. Why has this been discontinued?

*The Executive Officer's reports are now within the minutes of the Regional Board Meeting's located on the Board's website.*

#### **Public Understanding of Water Quality Issues**

5. Why do you believe the board's Web site is not kept up to date? Do you believe that the board's Web site can provide the public with needed information?

*This is the first I have heard that the website is not up-to-date. There are normal delays in posting information on the Website. I will look into this further.*

*It is my understanding that it takes one or two months from the collection of the field samples until posting on the Regional Board website. It is also my understanding that the Regional Board has limited resources and, as such, it makes the funding of an in-house Web Master a luxury beyond our financial reach. When items need posting on the web, they are sent to the SWRCB Web Master in Sacramento for posting.*

6. What type of information do you think should be provided to the public on the board's Web site?

*Notice of agendas, agenda content and meeting minutes are at a minimum for public information. Major Board policies and programs such as the "Water Quality Control Plan – Colorado River Basin – Region 7" are also informative and important information for the public and the regulated community.*

## State and Regional Board Roles

7. What is your view of the relationship between the state board and your regional board? What type of guidance do you receive from the state board?

*I have been on the Board only 18 months and I have seen a very cooperative working relationship between the State Board and the Regional Board. It is my understanding, due to the current budget crisis, that the future work of the Region and State Board will be affected significantly..*

8. How do you balance the board's focus on the permitting process and the focus on broad policy issues, such as updating basin plans and setting regional priorities? What is the best use of the board's time?

*The Regional Board has continually directed staff to negotiate with dischargers with the overarching goal of developing for the Board's consideration for adoption, uncontested permits/Waste Discharge Requirements (WDRs) that are protective of water quality. Regional Board staff does an excellent job of resolving most discharger issues before they come to the Board. This approach avoids the Board expending large amounts of time on disputed matters that are often highly technical. By directing staff to try and reach agreement on permitting matters, the Board can consider broader issues such as rulemaking that may involve multiple stakeholders and presentations. This is the best use of the Board's time.*

9. How do the state board and your regional board staff assist you to better understand some of the complex issues before you? Do you have any suggestions on how the state water board's staff might better assist you?

*The Regional Board staff has been extremely helpful in providing information and source material to understand the issues of the region and the challenges of the Board. State Board staff and counsel have also been extremely helpful and supportive. An example is the recent conference held in Chino Hills that was sponsored by the State Water Resources Control Board.*

*The Regional Board provides extensive and informative Board packets and provides any pertinent correspondence in a timely manner.*

*The Office of Chief Counsel has been particularly responsive to me and the Regional Board and has provided extensive information related to ethics, conflicts of interest, Ex Parte communications as well as our two different roles in adjudicatory and quasi-legislative actions.*

*I particularly find the regular statewide conferences on water quality issues a great benefit from a refreshment and update standpoint.*

## Enforcement

10. What is your view on how your board should enforce water quality laws?



When are fines and penalties appropriate, and when are more informal actions necessary?

*Enforcement of water quality laws is of the highest priority for the Regional Board. The Regional Board must make reasonable appropriate action and must be consistent. Early contact with the dischargers informally, followed by written Notices of Violations result in many dischargers making the necessary improvements voluntarily. The Board often considers adopting Time Schedule Orders (TSO). The TSO allows the discharger to make the appropriate fixes without generating more Mandatory Minimum Penalties (MMPs) in the interim.*

11. Without a current formal state board policy on enforcement, how does your board determine it is consistent in its enforcement practices with other regional boards?

*Consistency with other Regional Boards is provided by the SWRCB Office of Enforcement, which provides prosecutorial services to the Regional Board statewide. It is my understanding that the Board staff regularly communicates with other Regional Board staff and State Board staff and counsel for consistency in enforcement actions.*

*The Board has created an Enforcement Unit to prioritize enforcement and ensure the State Board's Water Quality Enforcement Policy is applied consistently, predictably, and in a timely manner.*

12. How do you prioritize your enforcement activities given current budget constraints?

*All State agencies are challenged by the recent budget crisis. We have to rely on staff to provide guidance on prioritization and the Board will assist and direct staff as needed to establish these priorities.*

## **Septic Rule**

13. Has the state board articulated a role for the regional boards in implementing this rule?

*It is my understanding that due to a large number of stakeholders throughout the State taking issue with the proposed Rule, the SWRCB is rewriting the Rule for consideration at a later date. The proposed regulations are mostly self- implementing, requiring actions by the property owners. Oversight is provided by the State and Regional Boards along with local agencies for citing and compliance.*

14. How does the board intend to monitor, enforce, and improve septic systems that contribute to surface and groundwater pollution?

*Through legislation, Basin Plan Amendments and Board Resolutions, the Board relies on the staff and the water agencies within the basin to monitor*

systems and the groundwater. The Board regulates septic systems with design flows above 5,000 gallons per day. The Board promotes sewerage and construction of public treatment systems and private small scale package systems in areas with a high density of septic systems.

## **New River Pollution**

15. What progress has been made, and what types of water quality impairments still exist? What needs to be done to address the remaining water quality impairments in the New River?

*Las Arenitas WWTP has eliminated the 15-20 million gallons per day of raw sewage that were routinely present in the New River at the Border. Further, Regional Board monitoring data show that New River bacteria were significantly reduced by about 10-fold, and that volatile organic compounds were reduced to below detection limits as a result of Las Arenitas. The dissolved oxygen in the River at the border has also improved. Also, the binational projects and WWTP have reduced the nutrient loading into the Salton Sea by about 20%.*

*There are still significant issues here. There are still New River water quality impairments at the Border caused by trash and non-point sources of pollution in Mexicali. The Regional Board continues to work with our Federal agencies to ensure additional measures are taken to address these impairments and sources of pollution.*

## **Salton Sea**

16. How does the board monitor Salton Sea water quality issues?

*The Regional Board monitors the Salton Sea at special locations through its Surface Water Ambient Monitoring Program. It also periodically monitors the quality of the Sea's main tributaries through TMDLs. The Regional Board requires the Imperial Irrigation District to monitor the quality of agricultural runoff in the Imperial Valley drains.*

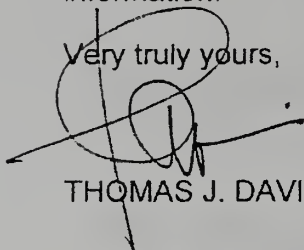
17. How does the board plan to deal with restoration of the Salton Sea? What role can federal stimulus money play in the restoration effort?

*The restoration of the Salton Sea is statewide and federal issue that goes far beyond what the Regional Board can do. The Regional Board only plays a regulatory role regarding Salton Sea restoration activities. In this capacity the Regional Board develops and implements TMDLs to address water quality impairments of the Sea's main tributaries; fully implements its core regulatory programs (e.g., NPDES Program) to control pollution from point sources; and provides regulatory guidance and technical support. Federal stimulus money could be used to undertake some of the early activities recommended by the Resources Agency and begin the restoration of the Sea. I urge the state to work in cooperation with the Federal Government to initiate restoration of the*

Salton Sea.

I hope you find my responses sufficient. Please contact me if you require any additional information.

Very truly yours,



THOMAS J. DAVIS



Jeffrey A. Hays

6-19-2009

## Statement of Goals

1. *Since you were first appointed, what have been your most significant accomplishments as a member of the Colorado River Basin Regional Water Quality Control Board*

- Work related to the Topock, CA hexavalent-chromium contamination clean up project.
- Re-evaluation and coordination with Coachella Valley Water District on e-coli testing methods in Whitewater storm channel.
- Overall cohesive board relationship with positive interaction with staff.

*What do you hope to accomplish during your current tenure as a member of the board?*

Continue representing the industrial/commercial and economic development concerns for compliance with water quality issues and reasonable and effective enforcement. Increased education and cooperation between the Board and permittees and cohesive board membership.

*How will you measure your success?*

Compliance with reporting standards for EPA and CAL EPA.  
Improvements in water quality for non compliant identified water bodies  
Reduced conflict with permittees when enforcement actions or new standards are implemented.

2. *What do you believe are the most serious problems facing your regional board?*

Lack of funding for staff and resources proportionate to the volume of compliance activities necessary for such a broad and diverse region.

The prolonged efforts to address a resolution to the Salton Sea Restoration Plan.

Increased impacts to water quality due to urban build up in the Coachella Valley and the peripheral impacts of water transfers out of the region to support larger metropolitan areas.

3. *How does your board help the public understand the state of water quality in your region?*

Through staff and management's excellent work to be proactive with the public and permittees, addressing concerns and alleviating questions. Providing work shops and other interactive meetings to address and receive input regarding methodology of

Senate Rules Committee

JUN 22 2009

Appointments

standards and the scientific measurement systems. Extended effort to provide access to documentation and meeting with constituents answer specific questions they have.

*Where should the public go for information on water quality issues, such as sewage spills or the overall quality of water in rivers and streams?*

**Utilize the regional board's website or direct inquiries to staff. This is a valuable tool with appropriate links to related information and other resources.**

4. *Your board posted the executive officer's report, the report used to inform board members and the public on what is happening on issues of concern to the board, on the board's Web site from 2000 to September 2005. Why has this been discontinued?*

**This report is included within the Board minutes on the Region's website.**

### **Public Understanding of Water Quality Issues**

Last year the Rules Committee asked how the board helps the public understand the state of water quality issues in your region. Board members responded that the staff provides regular water quality updates during board meetings. If members of the public cannot attend a board meeting they are left with trying to obtain information on the board's Web site. A review of the Web site shows that the Executive Officer Reports, which provide such updates, stops in 2005. In addition, on the home page various water quality subject areas are listed. One of them, the New River/Mexicali Sanitation program has a document on the historical overview of the New River water quality problems that is over ten years old, and an introduction to the New River/Mexicali Sanitation Program that is listed as being updated last May 1, 2008, but the information states that the completion of the Las Arenitas wastewater treatment plant and its main sewage line is scheduled for 2006. That wastewater plant has been up and running for over a year.

5. *Why do you believe the board's Web site is not kept up to date? Do you believe that the board's Web site can provide the public with needed information?*

**Do not believe it is out of date considering reasonable demands on staff time and the availability of the information in a effective format for publishing.**

6. *What type of information do you think should be provided to the public on the board's Web site?*

**Information, background and updates on ongoing projects within the region.  
Public notices for comments on upcoming projects or plans.  
Agendas and minutes of board meetings and workshops.  
Links to other environmental resources.**



## **State and Regional Board Roles**

The state and regional boards were created nearly four decades ago. In January 2009, the Little Hoover Commission issued a report on improving the performance of the state's water boards. One of the findings was that the relationship between the state and regional boards is not well-defined. This has led, they believe, to inconsistencies and inefficiencies among boards, an inability to set statewide priorities, and a lack of focus by the state board on holding regional boards accountable for clean water outcomes.

The report also found that there is little focus on clean water outcomes or accountability. Regional boards admit they have difficulty in analyzing watersheds to determine whether their programs are protecting and improving water quality. Regional water boards' focus is more on issuing permits and determining whether dischargers abide by permits than determining if the water is actually getting cleaner.

Another issue that has been raised in the past, and also discussed in the recent commission report, is that many of the issues board members have to deal with are very technical, and a number of board members are, basically, volunteers and do not have such formal technical experience.

*7. What is your view of the relationship between the state board and your regional board?*

**Subordinate in policy making and compliance with direct feedback on region specific issues. Direct working relationship is somewhat extended but recognize ongoing efforts to bring regional boards together for education and interaction on policies.**

*What type of guidance do you receive from the state board?*

**As a board member I receive little guidance other than updates through our representative counsel. Most guidance is technical compliance usually directed through staff or management.**

*8. How do you balance the board's focus on the permitting process and the focus on broad policy issues, such as updating basin plans and setting regional priorities?*

**The specifics of permitting and compliance is the priority consideration as it addresses the actual water quality conditions and ultimate public benefit. This is a staff driven regulatory effort with little board input other than disputes or approvals. The broad policy issues although also staff driven in development reflect the objectives of the board's vision and therefore critical to achieving long term goals for water quality.**

*What is the best use of the board's time?*



**It is a balance of both. The routine accessibility to the board by the public and permittees provides the opportunity to address concerns, questions or appreciation for the efforts in achieving water quality. Its also through that interaction and accessibility that public input can help shape the future policies or methods for implementation.**

9. *How do the state board and your regional board staff assist you to better understand some of the complex issues before you?*

**The regional board staff provide an excellent board packet with detailed information in adequate time to review and make inquiries on general or technical issue complemented with well verses presentations before any critical vote is required.**

**The greatest asset is the our legal liaison from the State Board who helps guide the board through the legal and bureaucratic standards that may or may not limit the range of our authority in policy or regulatory actions.**

*Do you have any suggestions on how the state water board's staff might better assist you?*

**An introductory orientation or background on roles and the hierarchy of rule making and legal compliance would greatly assist new and existing board members.**

## **Enforcement**

In 2005 the Office of the Secretary of Cal/EPA reported to the Legislature on environmental enforcement and suggested that the state and regional water boards were among the worst agencies in enforcing the law. In 2008 the state board, in its *Strategic Plan 2008–2012*, said it would adopt an updated water quality enforcement policy by December 2008. That enforcement policy will now not be adopted until mid to late 2009. On January 1, 2009, the state board published its 2008 enforcement report. Among other things, it showed the number of violations that were imposed by regional boards compared to completed enforcement actions. For the four-year period from 2005 through 2008, the Colorado River Basin regional water board scored a low of 91 percent in 2005 and a high of 99 percent in 2006 and 2008 in wastewater violations compared to completed enforcement actions. This is well above the average of the nine regional boards. For stormwater violations compared to completed enforcement actions, the board scored a low of 98 percent in 2007 and a high of 100 percent in 2005 and 2006. This is well above the average of the nine regional boards.

10. *What is your view on how your board should enforce water quality laws?*

**Strong and timely notices for enforcement is critical to prevent extended non compliance. However, mandatory fines without concern for cause or scale of impact can cause further problems for small rural systems. Understanding we can authorize portions of fines to be redirected back into compliance projects, the board should be allowed some discretion based on extenuating circumstances.**

*When are fines and penalties appropriate, and when are more informal actions necessary?*  
**Fines and penalties are appropriate when mishaps or operational procedures fail and are without malice or negligence of the operators. Formal actions are necessary when a system or its management is clearly negligent or ignoring its responsibilities under their permit.**

11. *Without a current formal state board policy on enforcement, how does your board determine it is consistent in its enforcement practices with other regional boards?*

**We utilize the existing 2002 policies as platform for our enforcement strategy complemented with the consistency in support by the State's Office of Enforcement.**

12. *How do you prioritize your enforcement activities given current budget constraints?*

**Preference towards prompt responses and actions to address non compliant systems or elements promotes efficiency in program enforcement.**

### **Septic Rule**

AB 885 (Jackson), Chapter 781, Statutes of 2000, requires the state board to develop, adopt, and implement statewide regulations for permitting and operation of on-site wastewater treatment systems (OWTS), commonly referred to as the "Septic Rule." This statewide rule for septic systems has been one of the most commented on proposed regulations and has seen overflow crowds at public meetings.

13. *Has the state board articulated a role for the regional boards in implementing this rule?*

**It appears the proposed regulations would implemented via the individual property owners with oversight by the Boards and other local agencies.**

14. *How does the board intend to monitor, enforce, and improve septic systems that contribute to surface and groundwater pollution?*

**Utilizing basin plan amendments, to incorporate the potential standards which are below those currently regulated. New developments are encouraged to**



**construct or connect to public systems and or utilize an approved packaged system for higher density developments.**

### **New River Pollution**

The New River flows north from Mexicali, Mexico, into the United States, just west of Calexico. The river has been called the most polluted river in the United States, with raw sewage and industrial waste being discharged into the Mexican portion of the river. In 1998 the regional water board said that the beneficial uses of the New River were impaired by bacteria, volatile organic compounds, nutrients, silt, and pesticides. Two projects in Mexico were developed—Mexicali I and Mexicali II. Mexicali I, which added and upgraded sewage collectors, was completed in 2004. Mexicali II added a 20 million gallon-per-day wastewater treatment plant, which is now online.

15. *What progress has been made, and what types of water quality impairments still exist? What needs to be done to address the remaining water quality impairments in the New River?*

**Development of the identified systems significantly reduced the levels of pollutants in the New River and its destination the Salton Sea. Continued coordination with US and Mexican governments and localities to further reduce polluting sources.**

**Continued support for biological treatment systems (wetlands) along the New River and lower Salton Sea.**

### **Salton Sea**

The Salton Sea is California's largest inland water body and home to more species of birds than any other place in California. Over 390 species of birds have been identified at the Sonny Bono Salton Sea National Wildlife Refuge. The enrichment of nutrients in the Salton Sea, known as eutrophication, has sufficiently impacted its uses, including recreation, fishing, and wildlife resources. Some of the specific effects include high algal growth, high fish productivity, low clarity, frequent very low dissolved oxygen concentrations, massive fish kills, and noxious odors. External loading of nutrients, particularly phosphorus, is responsible for the eutrophication of the Salton Sea. Approximately 75 percent of the freshwater inflow to the sea is agricultural drainwater from Imperial Valley, which is increasing the sea's salinity. There has been discussion that the recent federal stimulus bill could assist with restoration efforts.

The Legislature approved the preferred alternative for the restoration of the Salton Sea and provided for \$47 million in funding through Senator Ducheny's SB 187, Chapter 374, Statutes of 2008.

16. *How does the board monitor Salton Sea water quality issues?*

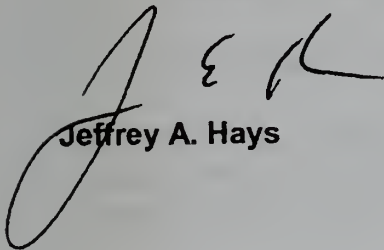


**Through our surface water monitoring program, which monitors the sea and its tributaries in the Coachella and Imperial valleys.**

*17. How does the board plan to deal with restoration of the Salton Sea? What role can federal stimulus money play in the restoration effort?*

**Our role relates to the regulatory compliance for water quality such as the TMDLs and direct polluting sources. Our participation in developing and reviewing plans to address water quality goals and monitoring will be critical. Financial constraints may impede commitments for staff involvement in early planning stages.**

**Use of stimulus funding should be directed for actual project implementation at the local level if not for actual construction then phased development of habitat restoration in areas not directly disturbed by future construction.**



Jeffrey A. Hays

1. Introduction

2. Methodology

3. Results and Discussion

4. Conclusion

5. References

6. Appendix

7. Acknowledgements

8. Author Biographies

9. Correspondence

10. Contact Information

11. Declaration of Interest

12. Funding Sources

13. Data Availability

14. Ethics Approval

15. Supplementary Materials

16. Additional Information

June 15, 2009

Ellen Way  
Responses  
WQCB, Colorado River  
Basin Region

The Honorable Darrell Steinberg  
Senate Rules Committee  
State Capitol – Room 420  
Sacramento, California 95814-4900

Subject: Ellen Sanders Way - Reappointment Questionnaire  
Regional Water Quality Control Board – Colorado River Basin Region

### Statement of Goals

1. *Since you were first appointed, what have been your most significant accomplishments as a member of the Colorado River Basin Regional Water Quality Control Board? What do you hope to accomplish during your current tenure as a member of the board? How will you measure your success?*
2. *What do you believe are the most serious problems facing your regional board?*
3. *How does your board help the public understand the state of water quality in your region? Where should the public go for information on water quality issues, such as sewage spills or the overall quality of water in rivers and streams?*

As a board member, I think it is important to ask questions and make sure that I fully understand the implications of a proposed action before casting my vote. During my tenure, I have made it known that our office and its staff are here to serve the public and to help the regulated community understand and comply with regulations. I am proud to say that we do not have hostile meetings, but rather our staff is diligent in resolving contested issues prior to each board meeting.

During my current tenure on the board, I intend to see that our region manages our limited financial resources wisely. My top three priorities include: continuing to address the water quality problems of the New River and the pollution from Mexico that contributes to those problems; pushing for the expeditious development and implementation of a final remedy for the hexavalent chromium contamination at the PG&E Topock natural gas compressor facility along the Colorado River; and to phase out septic systems in the town of Yucca Valley and its surrounding communities.

The success of each of these goals will obviously vary by goal, but overall our success will be measured by how well we control contaminants from entering our waterways and by protecting our current water quality.

Senate Rules Committee

JUN 15 2009

Appointments



Ellen Sanders Way - Reappointment Questionnaire  
Pg. 2 of 9

From my standpoint, the most serious issue facing the Board is the protection of the ground water basin. We must also protect the quality of agricultural irrigation water and control urban run-off in the Coachella Valley. Additionally, stabilization of the Salton Sea, continued progress in reducing polluted waste water coming from Mexico and the elimination of septic systems, particularly in the High Desert are top priorities.

As I stated earlier, a daily priority for our Region is to take a proactive approach to working with the public. Our contact with the public is critical to maintaining a positive reputation in the community. RB7 maintains a Lyris list of over 250 recipients (subscribers) to notice our public meetings, location and times and provide links to Agenda items. Our website also provides numerous documents on water quality in the Region along with links to the SWRCB. For example, on the RB7 website, please see: Programs→Sanitary Sewer Overflows→State Board Website on Sanitary Sewer Overflow Program (General State Board Order for Collection Systems)  
([http://www.waterboards.ca.gov/water\\_issues/programs/sso/sso\\_map/sso\\_pub.shtml](http://www.waterboards.ca.gov/water_issues/programs/sso/sso_map/sso_pub.shtml))

This link produces a Google map with incident locations throughout the state and by clicking on the incident marker the incident report can be accessed.

One of the best resources for the public is phoning the office and asking to speak with a staff member familiar with specific subjects. Commonly the caller is asked to open our website and, simultaneously, the staff member works from their desktop to help the caller find the specific location for information. Being a small office, the staff is very welcoming to the public if they arrive in person and will go to great lengths to find information or offer advice or provide the appropriate forms.

4. *Your board posted the executive officer's report, the report used to inform board members and the public on what is happening on issues of concern to the board, on the board's Web site from 2000 to September 2005. Why has this been discontinued?*

The Executive Officer's reports, in condensed format, are within the minutes on the RB7 website. For example, please see:

Board Minutes →Minutes→March 19, 2009

Ellen Sanders Way - Reappointment Questionnaire  
Pg. 3 of 9

### **Public Understanding of Water Quality Issues**

Last year the Rules Committee asked how the board helps the public understand the state of water quality issues in your region. Board members responded that the staff provides regular water quality updates during board meetings. If members of the public cannot attend a board meeting they are left with trying to obtain information on the board's Web site. A review of the Web site shows that the Executive Officer Reports, which provide such updates, stops in 2005. In addition, on the home page various water quality subject areas are listed. One of them, the New River/Mexicali Sanitation program has a document on the historical overview of the New River water quality problems that is over ten years old, and an introduction to the New River/Mexicali Sanitation Program that is listed as being updated last May 1, 2008, but the information states that the completion of the Las Arenitas wastewater treatment plant and its main sewage line is scheduled for 2006. That wastewater plant has been up and running for over a year.

5. *Why do you believe the board's Web site is not kept up to date? Do you believe that the board's Web site can provide the public with needed information?*

Using available resources, there are normal delays in posting information on the Website. For example, recent New River/Mexicali Sanitation Water Quality Data for February 2009 is posted. Please see:

Water Issues→Programs→New River/Mexicali Sanitation Program→New River/Mexicali Sanitation Program Data→Current Year, February 2009 Data.  
[http://www.waterboards.ca.gov/coloradriver/water\\_issues/programs/new\\_river/2009/jan\\_feb2009.pdf](http://www.waterboards.ca.gov/coloradriver/water_issues/programs/new_river/2009/jan_feb2009.pdf)

The New River data is posted after the samples have been collected, shipped to the lab, analyzed and then verified. After analytical reports have been sent to the RB7 lab it takes one or two months from the collection of the field samples until posting on the RB7 website. RB7 has a relatively small staff with that makes the funding of an in-house Web Master a luxury beyond our financial reach. When items need posting on the web, they are sent to the SWRCB Web Master in Sacramento for posting.

6. *What type of information do you think should be provided to the public on the board's Web site?*

Access to our Agendas and announcements of Regional Board Meetings are paramount.

Ellen Sanders Way - Reappointment Questionnaire  
Pg. 4 of 9

### State and Regional Board Roles

The state and regional boards were created nearly four decades ago. In January 2009, the Little Hoover Commission issued a report on improving the performance of the state's water boards. One of the findings was that the relationship between the state and regional boards is not well-defined. This has led, they believe, to inconsistencies and inefficiencies among boards, an inability to set statewide priorities, and a lack of focus by the state board on holding regional boards accountable for clean water outcomes.

The report also found that there is little focus on clean water outcomes or accountability. Regional boards admit they have difficulty in analyzing watersheds to determine whether their programs are protecting and improving water quality. Regional water boards' focus is more on issuing permits and determining whether dischargers abide by permits than determining if the water is actually getting cleaner.

Another issue that has been raised in the past, and also discussed in the recent commission report, is that many of the issues board members have to deal with are very technical, and a number of board members are, basically, volunteers and do not have such formal technical experience.

7. *What is your view of the relationship between the state board and your regional board? What type of guidance do you receive from the state board?*
8. *How do you balance the board's focus on the permitting process and the focus on broad policy issues, such as updating basin plans and setting regional priorities? What is the best use of the board's time?*

My view of the relationship between the State Board and our Regional Board is similar to the parent/subsidiary in the corporate world. As such, the State board has certain parent corporation responsibilities, such as overseeing the Regional Boards, overturning, if necessary, a RB decision, and developing plans, policies, and regulations of statewide application to be carried out of the Regional Boards, and approving Regional Board budgets.

Personally, I have found the State Board to be helpful in providing legal guidance in my role as chair of the Board. I also appreciate the fact that when we asked the State to postpone an item that we had submitted for their consideration, they did so without question.



Ellen Sanders Way - Reappointment Questionnaire  
Pg. 5 of 9

I would like to see the State Board and the Legislature move forward on a number of statutory changes that I believe will improve our efficiency and ultimately improve water quality. For example, I think we need to allow impoverished communities to invest 100% of Mandatory Minimum Penalties back into improvements to their treatment facilities. We are delaying system improvements by forcing poor communities to pay fines with the limited resources they have available rather than reinvest that money directly.

Regional Board 7 has continually directed staff to negotiate with dischargers with the overarching goal of developing for the Board's consideration for adoption, uncontested permits/WDRs that are protective of water quality. When a contested item is brought before the Board, the Board commonly listens to the discharger's and staff's different views and then directs staff to continue in good faith negotiations with the discharger, so the item can be considered by the Board later in the meeting or at a future meeting. This approach avoids the Board expending large amounts of time on disputed matters that are often highly technical. By directing staff to try and reach agreement on permitting matters, the Board can consider broader issues such as rulemaking that may involve multiple stakeholders' presentations.

9. *How do the state board and your regional board staff assist you to better understand some of the complex issues before you? Do you have any suggestions on how the state water board's staff might better assist you?*

Most of the assistance I receive comes from the regional board staff and our attorney from the Office of Chief Counsel with the State Board. Both provide invaluable assistance in helping me understand the many complex water quality issues facing our Region. On a regular basis, I am briefed on issues coming before the Board, I meet with staff members working directly on a particular issue, and I meet with stakeholders. I have also learned a great deal from field tours that have helped me put into context the specific issues that have come before the Board.

During my tenure on the Board, I have not had a great deal of interaction with staff at the State level.

Ellen Sanders Way - Reappointment Questionnaire  
Pg. 6 of 9

In 2005 the Office of the Secretary of Cal/EPA reported to the Legislature on environmental enforcement and suggested that the state and regional water boards were among the worst agencies in enforcing the law. In 2008 the state board, in its *Strategic Plan 2008–2012*, said it would adopt an updated water quality enforcement policy by December 2008. That enforcement policy will now not be adopted until mid to late 2009. On January 1, 2009, the state board published its 2008 enforcement report. Among other things, it showed the number of violations that were imposed by regional boards compared to completed enforcement actions. For the four-year period from 2005 through 2008, the Colorado River Basin Regional Water Board scored a low of 91 percent in 2005 and a high of 99 percent in 2006 and 2008 in wastewater violations compared to completed enforcement actions. This is well above the average of the nine regional boards. For stormwater violations compared to completed enforcement actions, the board scored a low of 98 percent in 2007 and a high of 100 percent in 2005 and 2006. This is well above the average of the nine regional boards.

10. *What is your view on how your board should enforce water quality laws? When are fines and penalties appropriate, and when are more informal actions necessary?*

Enforcement of water quality laws is of the highest priority for our Region. As a Board Member, I expect the staff to closely track non-compliance with our Orders and respond as rapidly as possible with the appropriate actions, both informal and formal, to avoid accrual of large penalties that reflect poorly on our implementation of the robust powers delegated by the Legislature under Porter-Cologne. Due to careful and timely review of self-monitoring reports, early contact with the discharges by phone or e-mail, followed by written Notices of Violations, many dischargers react positively by making the necessary operational improvements voluntarily. Obviously when non-compliance triggers mandatory minimum penalties, the RB must take formal action. If the discharger intends to address the problem, but may need time to fund and design the fixes, the Board often considers adopting Time Schedule Orders (TSO). The TSO allows the discharger to make the appropriate fixes without generating more Mandatory Minimum Penalties (MMPs) in the interim. The goal of this "attitude" towards enforcement is to work cooperatively with stakeholders to protect water quality.

Ellen Sanders Way - Reappointment Questionnaire  
Pg. 7 of 9

11. *Without a current formal state board policy on enforcement, how does your board determine it is consistent in its enforcement practices with other regional boards?*

The existing 2002 State Board Enforcement Policy provides the basic underpinning of our Enforcement Program strategy. Consistency with other Regional Boards (RBs) is provided by the SWRCB Office of Enforcement, which provides prosecutorial services to the RBs statewide. Additionally, regular Enforcement roundtables for RB enforcement staff contribute to consistent implementation statewide.

12. *How do you prioritize your enforcement activities given current budget constraints?*

RB7, by providing quick turnaround responses to non-compliance is able to control enforcement program expenditures.

### **Septic Rule**

AB 885 (Jackson), Chapter 781, Statutes of 2000, requires the state board to develop, adopt, and implement statewide regulations for permitting and operation of on-site wastewater treatment systems (OWTS), commonly referred to as the "Septic Rule." This statewide rule for septic systems has been one of the most commented on proposed regulations and has seen overflow crowds at public meetings.

13. *Has the state board articulated a role for the regional boards in implementing this rule?*

The proposed regulations would largely be self implementing, requiring actions by the property owners. Oversight would be provided by the State and Regional Boards along with local agencies for citing and compliance. However, due to a large number of stakeholders throughout the State taking issue with the proposed Rule, the SWRCB is rewriting the Rule for consideration at a later date.

14. *How does the board intend to monitor, enforce, and improve septic systems that contribute to surface and groundwater pollution?*

RB7 regulates through WDRs septic systems with design flows above 5,000 gallons per day. Through legislation, Basin Plan Amendments and Board Resolutions, RB7 promotes sewerage and construction of public treatment systems and private small scale package systems in areas with a high density of septic systems



Ellen Sanders Way - Reappointment Questionnaire  
Pg. 8 of 9

### **New River Pollution**

The New River flows north from Mexicali, Mexico, into the United States, just west of Calexico. The river has been called the most polluted river in the United States, with raw sewage and industrial waste being discharged into the Mexican portion of the river. In 1998 the regional water board said that the beneficial uses of the New River were impaired by bacteria, volatile organic compounds, nutrients, silt, and pesticides. Two projects in Mexico were developed—Mexicali I and Mexicali II. Mexicali I, which added and upgraded sewage collectors, was completed in 2004. Mexicali II added a 20 million gallon-per-day wastewater treatment plant, which is now online.

15. *What progress has been made, and what types of water quality impairments still exist? What needs to be done to address the remaining water quality impairments in the New River?*

#### Progress

Las Arenitas WWTP has eliminated the 15-20 million gallons per day of raw sewage that were routinely present in the New River at the Border. Further, Regional Board monitoring data show that New River bacteria were significantly reduced by about 10-fold, and that volatile organic compounds were reduced to below detection limits as a result of Las Arenitas. The dissolved oxygen in the New River at the Border has also improved to a point that it eliminated the stench that made the river infamous in the Calexico area. Also, the bi-national projects and WWTP have reduced the nutrient loading into the Salton Sea by about 20%.

#### Remaining issues

In spite of significant water quality improvements from the bi-national projects, there are still New River water quality impairments at the Border caused by trash and non-point sources of pollution in Mexicali. The Regional Board continues to work with our Federal agencies to ensure additional measures are taken to address these impairments and sources of pollution.

### **Salton Sea**

The Salton Sea is California's largest inland water body and home to more species of birds than any other place in California. Over 390 species of birds have been identified at the Sonny Bono Salton Sea National Wildlife Refuge. The enrichment of nutrients in the Salton Sea, known as eutrophication, has sufficiently impacted its uses, including recreation, fishing, and wildlife resources. Some of the specific effects include high algal growth, high fish productivity, low clarity, frequent very low dissolved oxygen concentrations, massive fish kills, and noxious odors. External loading of nutrients, particularly phosphorus, is responsible for the eutrophication of the Salton Sea.

Ellen Sanders Way - Reappointment Questionnaire  
Pg. 9 of 9

Approximately 75 percent of the freshwater inflow to the sea is agricultural drainwater from Imperial Valley, which is increasing the sea's salinity. There has been discussion that the recent federal stimulus bill could assist with restoration efforts.

The Legislature approved the preferred alternative for the restoration of the Salton Sea and provided for \$47 million in funding through Senator Ducheny's SB 187, Chapter 374, Statutes of 2008.

16. *How does the board monitor Salton Sea water quality issues?*

17. *How does the board plan to deal with restoration of the Salton Sea? What role can federal stimulus money play in the restoration effort?*

The Regional Board monitors the Salton Sea at key locations through its Surface Water Ambient Monitoring Program. It also periodically monitors the quality of the Sea's main tributaries (the New and Alamo Rivers and Coachella Valley Stormwater Channel) through TMDLs. Further, the Regional Board requires the Imperial Irrigation District to monitor the quality of agricultural runoff in the Imperial Valley drains.

I would ask you to keep in mind that the Salton Sea is an agricultural drain, which helped this region become a major food producing sector of our State. Secondary benefits of the Sea include habitat for migrating birds and recreational uses. Farmers are becoming more efficient in their reuse of irrigation water and less water is going into the Sea each year. Yes, the Sea is too salty, however, the decrease in flows to the Sea pose a far greater risk to the region. At this time, the cost of improving the salinity level of the Sea and maintaining that level is prohibitive.

I have lived in the Coachella Valley for 19 years and I assure you that the state of the Sea is far more stable then the description stated above. My husband's farming company has farmed on the shore of the Sea for over two decades and it is an excellent environment for growing fresh fruits and vegetables. The security of this nation rests, in part, on protecting our domestic food supply.

Thank you for giving me the opportunity to answer these questions to the best of my knowledge. I look forward to continuing to serve the Colorado River Region. Should you have any questions regarding this document, please contact me at 760-831-4233.

Kindest regards,

Ellen S. Way





Keith was  
appointed  
in 2005, Lahontan  
Region

**SENATE RULES COMMITTEE QUESTIONS**  
(with Keith Dyas responses in **bold print**; May 2009)

Statement of Goals

1. *Since 2005 when you were first appointed, what have been your most significant accomplishments as a member of the Lahontan Regional Water Quality Control Board? What do you hope to accomplish during your current tenure as a member of the board? How will you measure your success?*

**I have been successful in directing our board's attention to the rapidly growing practice of groundwater "banking", or storage of State Water Project (SWP) supplies in the southern, arid portion of the Lahontan Region. While groundwater banking is an important tool in water resource management, the practice runs the risk of contaminating native groundwater if not regulated properly. Also, the introduction of SWP water (with its higher TDS) can result in salt accumulation in closed hydrologic basins, if not managed properly.**

**Also, I have stressed the importance of directing our limited resources wisely. For instance, I have lobbied successfully to minimize our involvement with water rights issues (quantity), in order to maintain our focus on our primary mission of water quality protection.**

**During my current tenure on the board, I hope to accomplish the following:**

- A. Continue progress in stabilizing Lake Tahoe clarity (as measured by annual Secchi disk measurements).**
- B. Amend the Lahontan Basin Plan to protect prime groundwater recharge areas of arid basins (as reflected in amended Basin Plan provisions).**
- C. Continue to encourage and assist sanitation districts with treatment plant upgrades. Such upgrades will improve effluent water quality to levels that will allow expanded recycling and reuse, as measured in MGD (million gallons per day).**

2. *What do you believe are the most serious issues facing your board?*

**Overall, lack of funding is our board's most serious issue. We have estimated that we receive less than 50% of the funding necessary to properly fulfill our responsibility to protect the region's water quality.**

**Other than funding issues, the most serious threats in the northern portion of the region are ground disturbing activities that threaten to release sediment into Lake Tahoe and its tributaries.**

Senate Rules Committee

MAY 28 2009

appointments

In the southern portion of the region, our most serious threat is the discharge of undertreated domestic sewage, which should be properly treated, recycled and reused, in order to alleviate growing water shortages and also prevent groundwater contamination. Other potential threats in the south include the accumulation of total dissolved solids (TDS) or salts in our groundwater aquifers and groundwater contamination from dairy wastewater discharges.

3. *How does your board help the public understand the state of water quality in your region? Where should the public go for information on water quality issues, such as sewage spills, or the overall quality of water in rivers and streams in your region?*

Our board provides the following methods of informing the public regarding the state of the region's water quality and other water quality issues: the Water Quality Control Plan (Basin Plan) for the Lahontan Region, monthly public meetings (rotated within the region to accommodate the widely distributed population), public workshops and special presentations, newsletters, public notices, press releases, local newspaper articles, general correspondence, an informative website and personal contact by our staff in person or by phone.

### **State and Regional Boards**

The state and regional boards were created nearly four decades ago. In January 2009 the Little Hoover Commission issued a report on improving the performance of the state's water boards. One of the findings was that the relationship between the state and regional boards is not well-defined. This has led, they believe, to inconsistencies and inefficiencies among boards, an inability to set statewide priorities, and a lack of focus by the state board on holding regional boards accountable for clean water outcomes.

The report also found that there is little focus on clean water outcomes or accountability. Regional boards admit they have difficulty in analyzing watersheds to determine whether their programs are protecting and improving water quality. Regional water boards' focus is more on issuing permits and determining whether dischargers abide by permits than determining if the water is actually getting cleaner.

Another issue that has been raised in the past, and also discussed in the recent commission report, is that many of the issues board members have to deal with are very technical, and a number of board members are, basically, volunteers and do not have such formal technical experience.

4. a. *What is your view of the relationship between the state board and your regional board?*

**I believe that the relationship between the State and regional boards should facilitate coordination of respective activities to achieve a unified and effective water quality control program for California, as specified in**



the Porter-Cologne Water Quality Control Act. Additionally, the State Board sets statewide policy for the implementation of state and federal laws and regulations. The statewide policy must be incorporated into the Water Quality Control Plans adopted and implemented by the regional boards.

From my observations in my first term, the relationship defined above is respected and in effect between Lahontan and the State Board. Furthermore, I have a strong sense that our staff and board willingly recognize the State Board authority.

*4. b. What type of guidance do you receive from the state board?*

Members of the state board frequently attend our regional board meetings and brief us on current events and discussions, status of policy changes, proposed legislative actions, etc. The state board provides legal guidance through the attorneys assigned to serve our regional board. Additionally, our executive officer maintains close contact with state board members and staff, for further guidance with respect to specific issues.

*5. How do you balance the board's focus on the permitting process and the focus on broad policy issues, such as updating basin plans and setting regional priorities? What is the best use of the board's time?*

The permitting process is always an immediate and urgent concern that must be addressed on a daily basis, most of which is performed by staff and then submitted to the board for consideration. However, broad policy issues must be determined by the board. Therefore, I believe that the majority of the board's focus should be placed upon the broad policy issues, such as basin plan amendments, regional priorities, positions on issues of regional significance, etc. Consequently, these same policy issues represent the best use of the board's time. Staff is capable of efficient performance, only if clear, sound policies and priorities have been established by the board.

*6. How do the state board and your regional board staff assist you to better understand some of the complex issues before you? Do you have any suggestions on how the state water board's staff might better assist you?*

While it is true that my role as a board member is full of challenges, and represents a significant learning experience in many respects, environmental science is not one of them. Fortunately, my background (M.S. in mechanical engineering; 15 years environmental management experience for the federal government) has provided me a good foundation for the technical challenges facing board members. However, whenever I do happen to need additional information to study a board issue, the Lahontan staff is eager to provide prompt, effective assistance.



**Because of the fine support I have been provided, and because of my background, I have no suggestions for improvement of my situation. However, new board members without a technical background would probably benefit from general orientation seminars, if provided by the state board.**

## **Enforcement**

In 2005 the Office of the Secretary of Cal/EPA reported to the Legislature on environmental enforcement and suggested that the state and regional water boards were among the worst agencies in enforcing the law. In 2008 the state board, in its *Strategic Plan 2008–2012*, said it would adopt an updated water quality enforcement policy by December 2008. That enforcement policy will now not be adopted until mid to late 2009. On January 1, 2009, the state board published its 2008 enforcement report. Among other things, it showed the number of violations that were imposed by regional boards compared to completed enforcement actions. For the four-year period from 2005 through 2008, the Lahontan regional water board scored a low of 35 percent in 2007 and a high of 96 percent in 2006 in wastewater violations compared to completed enforcement actions. This is about average of the nine regional boards. For storm water violations compared to completed enforcement actions, the board scored a low of 38 percent in 2006 and a high of 56 percent in 2007. This is well below the average of the nine regional boards.

7. *What is your view on how your board should enforce water quality laws? When are fines and penalties appropriate, and when are more informal actions necessary?*

**I believe that water quality laws should be enforced fairly, firmly, uniformly and preferably through a cooperative and mutually respectful effort with dischargers and the public in general. I believe that the vast majority of dischargers sincerely try to maintain compliance with the law and their permits. We as a board can assist the dischargers' compliance efforts by producing fair and reasonable Basin Plans and waste discharge requirements that are protective of water quality and still take into consideration comments from dischargers.**

**I believe that fines and penalties are appropriate only when they can be expected to produce the desired result – compliance. Responsible dischargers, who are sincerely attempting to comply, and yet occasionally fail, will not always be positively influenced by fines and penalties. However, irresponsible dischargers who knowingly violate permits for economic gain can be quickly convinced to comply through the imposition of the economic disincentives of fines and penalties. The challenge for our board then becomes: "How do we distinguish between these two types of noncompliance?" I make the distinction by considering the following factors:**

- (1.) Prior history of violations.
- (2.) Any voluntary cleanup efforts undertaken by the discharger.
- (3.) The degree of culpability.
- (4.) Economic savings to the discharger resulting from the violation.
- (5.) The specific nature and circumstances of the violation.

8. *Without a current formal state board policy on enforcement, how does your board determine it is consistent in its enforcement practices with other regional boards?*

The state board is accepting comments on its Draft Water Quality Enforcement Policy until May 28, 2009. Until the policy is finalized, we can maintain consistency in enforcement practices through interactions and discussions with the state board and regional boards at forums such as the Water Quality Coordinating Committee meetings and others. We also monitor enforcement actions of other regional boards through news reports, the DWR news service, general correspondence, various data bases, interactions with dischargers who operate in other regions, etc. Our executive officer maintains relationships with other regions and the state board, and relates to our board the information he gathers from formal reports and personal discussions. Also, because each regional board attorney is assigned from a pool of legal professionals at the state board, we benefit from the close relationship our attorney maintains with the state board, whose oversight obviously extends to other regions.

9. *How do you prioritize your enforcement activities given current budget constraints?*

When prioritizing, I consider such factors as the degree of toxicity, proximity to sensitive receptors, quantity of discharge, ability to remediate, existing quality of receiving waters, etc. I place the greatest emphasis on violations that have the highest potential to threaten the health and safety of the general population. For instance, I would place a higher priority on stopping a discharge of untreated sewage into a drinking water supply, than I would place on stopping a discharge of inert sediment into the same drinking water supply.

### **Emerging Contaminants**

Last year the Associated Press (AP) reported that a vast array of pharmaceuticals and over-the-counter medicines were detected in the drinking water supplies of 24 major metropolitan areas—from Southern California to New Jersey. Additionally, AP's investigation indicated that watersheds, the natural sources of most of the nation's water supply, are also contaminated. These pharmaceuticals are manufactured to be active at small doses. Although the concentrations of these pharmaceuticals are miniscule, worries among scientists are heightening because of the long-term consequences to human health.



In November 2008 board staff attended the Symposium on Emerging Contaminants. The event presented the latest developments in detection, risk assessment, remediation, and regulation of emerging contaminants in groundwater.

10. *What is your view of the role regional water boards should be playing regarding this issue?*

**The regional boards must keep themselves informed of these emerging contaminants so that they can properly recognize and assess the threats that they pose, in order to subsequently be able to prioritize and allocate resources accordingly. The regional boards should also be prepared to offer the benefits of their experiences (when applicable) to the state board and the Department of Public Health.**

**Also, in accordance with the provisions of the state board Recycled Water Policy, a CEC (Contaminants of Emerging Concern) Advisory Panel has been established to address questions about regulating CECs with respect to the use of recycled water. The panel will provide recommendations to the State Water Board and Department of Public Health. The panel was convened on May 4, 2009 and will hold meetings later in 2009 and in 2010. Our regional board will monitor the panel's activity and participate as appropriate.**

11. *Should the state board—through the regional boards—be working with the Department of Public Health to require testing and set safety limits for drugs in drinking water?*

**Yes, the state board should offer assistance during the process of establishing drug concentration limits in drinking water. Also, the state board should provide the regional boards with an opportunity to comment.**

## **Lake Tahoe**

The clarity of Lake Tahoe has been declining for decades. The lake's visibility has dropped an average of 1 foot a year between 1968 and 1988; from 1988–2008 it has slowed to one-half foot per year. The clarity has dropped from about 100 feet in the 1960s to between 65 and 70 feet today. Currently, your board is developing a Lake Clarity Crediting Program to link water quality improvement projects within the urban landscape to load reduction credits. According to the University of California, Davis, Tahoe Environmental Research Center, a 35 percent reduction in three types of pollution—nitrogen, phosphorus, and fine sediment—could restore the lake's clarity to the level seen in the 1970s.

12. *In your letter to the Rules Committee in 2005, you said that by the end of your term (September 2008) you would like to have reversed the longstanding trend of declining clarity in Lake Tahoe. How close is the board to achieving this goal?*



Unfortunately, my stated goal in 2005 of reversing the decline of Lake Tahoe clarity was overly optimistic. Even though the rate of decline has been reduced, the actual clarity is less today than in 2005. However, with the implementation in the near future of the Lake Tahoe TMDL (Total Maximum Daily Load) for sediment and nutrients (nitrogen and phosphorous), I believe it is realistic to expect to see clarity improvements by 2020.

13. *How does the board envision using the Lake Clarity Crediting Program to improve the lake's clarity?*

This crediting program is a tool developed by the Lake Tahoe TMDL team, of which our board is a member. The crediting program will provide the basis for tracking compliance with each jurisdiction's allocation. Also, it is intended to provide implementation flexibility, encourage effective and innovative practices, foster cooperative water quality improvement efforts and provide a consistent methodology to assess Municipal National Pollutant Discharge Elimination System (NPDES) Storm Water Permit compliance. We expect to incorporate jurisdiction-specific load allocations and associated targets into updated NPDES permits in 2010 following TMDL adoption. The permits will include (in the Monitoring & Reporting Programs) crediting mechanisms to estimate pollutant load reductions associated with various implementation actions. Such activities might include erosion control projects, residential best management practices, and water quality infrastructure maintenance work by municipalities and Caltrans. The crediting program will help define specific rules and modeling tools necessary to estimate load reductions. We anticipate that regional monitoring efforts and improvements in technology will help refine these estimates over time. An adaptive management framework will provide the means to incorporate new information into the crediting system to track TMDL implementation progress.

14. *What other actions could the board take to improve the clarity of the lake?*

Our board will implement BMPs (Best Management Plans) and appropriate Basin Plan amendments. Also, through the permitting process, our board will require dischargers to incorporate into their projects, stream restorations, storm water runoff controls (infiltration basins, filtration galleries, etc), dirt road maintenance or closure, road abrasive application management, slope stabilizations, etc.

### **Lake Tahoe Basin Wildfires**

A major public concern in the Lake Tahoe Basin remains the threat of catastrophic fire. The Angora Fire that erupted in June 2007 destroyed more than 250 homes on the California side of the Tahoe Basin, and over \$141 million in damage occurred. In the wake of this fire, public agencies with environmental and regulatory oversight of the Tahoe Basin were criticized for allowing bureaucratic red tape to hinder the advancement of efforts to prevent such disasters. Your board is now part of the Tahoe

Forest Fuels Team that met January 29, 2009, and briefed participants on a process for implementing 2009 field season fuel reduction projects.

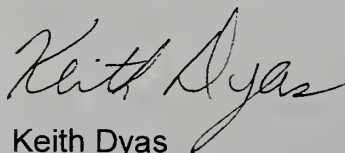
15. *How do you view the work of your board and other local agencies that participate on the Tahoe Forest Fuels Team? Have communications improved among local agencies? Are water quality concerns of your board addressed in the fuels reduction program?*

Each member of the Tahoe Forest Fuels Team maintains a unique position on the team and a unique mission within the Tahoe Basin. Understandably, each member initially displayed reluctance to share authority or compromise long-standing positions. However, the team members have now successfully forged a mutually respectful alliance that is dedicated to significantly reducing wild fire threats, while still protecting water quality.

Although our regional board has historically placed great value on public input in development of plans and policies, the June 2007 Angora Fire generated a new and urgent need for additional teamwork and cooperation with the public and other local agencies. Because of this urgent need for teamwork in the mutual goal of making the Tahoe Basin safer from wild fires, communications have improved significantly, and we have experienced improved trust among the team members, who have shown a new willingness to compromise on important issues.

In fact, on May 14, 2009, our regional board approved the "Waiver of Waste Discharge Requirements for Timber Harvest and Vegetation Management Activities", which will drastically streamline the regulatory process which governs fuels reduction activities, and in turn reduce wild fire threats. Also, our board approved a waiver in December 2008 which allows fuels reduction projects to proceed without water board permits, if the projects are regulated by the Tahoe Regional Planning Authority. These waivers demonstrate our trust in the other members of the Tahoe Forest Fuels team. The approval of the waivers required considerable open and sincere negotiations among the many stakeholders, and was approved only after all water quality concerns had been thoroughly addressed.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Keith Dyas".

Keith Dyas

May 22, 2009



## Statement of Goals

1. *What have been your most significant accomplishments as a member of the North Coast Regional Water Quality Control Board?*

*Because of my background working with RCD's, the NRCS and other landowner groups, I have been able to foster a collaborative atmosphere for the Board to work closely with the folks on the ground. It has proven to be a prosperous union for working with private landowners in the Scott and Shasta communities. My work with landowners gives me an insight to how people work with and view governing agencies. This has given me an opportunity to bring simple suggestions to staff and the board that foster a "let's work together" approach verses a "regulator and the regulated" that sometimes comes with regulatory bodies. The feed back has improved greatly from the communities regarding their correspondence with staff. Kudos to the Water Board Staff!*

2. *What do you hope to accomplish during your current tenure as a member of the board? What goals do you have for the board, and how will you accomplish them? How will you measure your success?*

*I hope to continue to work hard at making the decisions needed to make things happen on the ground.*

*I will continue to encourage our board to work with other state agency, RCD's, and landowner groups who have the same or similar goals as our board. In these times of little money, we need to work together. On many occasions, it has been collaborative efforts that have brought us the scientific data needed to work through and make good decisions.*

*Success will be measured by projects accomplished, successful networking and relationships with our partners.*

3. *What do you believe are the most critical issues currently facing the board?*

The development and adoption of the TMDL's and their work plans. The Klamath River issues represent a challenging time of change in our region. Working through these issues will be critical and we will need to practice wisdom, knowledge and for thought.

Senate Rules Committee

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Appointments



## State and Regional Board Roles

The issues addressed by regional water boards are often scientifically complex. Preparation for hearings can be time-consuming for board members, particularly considering these are part-time positions.

4. *How do the state board and the North Coast board assist you in understanding and analyzing complex issues before your board?*

*We are provided with a profusion of documents before our meetings. These are delivered to us in due time to study them before the meetings. We also have the opportunity for briefings on particularly large or complex items. We are made aware of workshops and their locations. We also have access to staff for questions and our EO is available to assist us. Information is also sent to us on a regular basis through e-mail.*

5. *What training have you received to help you better understand when you might have a conflict of interest regarding an issue on your board's agenda? How do you know when to withdraw yourself from voting on an issue?*

*I received training when I was first appointed to the Water Board. Continual reminders are issued from our attorneys during Board Meetings. We have also received information regarding this at the WQCC Meetings. I know when to withdraw myself from these trainings and from consultation with our attorneys.*

## Public Outreach

This board covers an expansive region of the state, encompassing a total area of approximately 19,390 square miles, including 340 miles of scenic coastline and remote wilderness areas, urban areas, and agricultural land.

6. *How does your board assist the public in understanding the state of water quality in your region? Do you believe that the information on your Web site is adequate?*

*The Board abides routinely by the public notice rules in regards to any item requiring notice and the location, date and time of our meetings. The website and mailers keep anyone who wants to be informed. I believe the information on the website is adequate.*

7. *What do you believe are the most effective means of communication to inform the public on more immediate water quality issues, such as beach closures and sewage spills?*

*Postings at the site, local media, local authorities and community bulletin boards.*

## **Federal Economic Stimulus Funds**

On February 17, 2009, President Obama signed HR 1, the American Recovery and Reinvestment Act of 2009 (ARRA), which provides \$787 billion in economic investment nationally. The goals of ARRA are to jump-start the economy and create jobs for Americans in an accountable, transparent manner. California is the beneficiary of approximately \$50 billion for a variety of statewide programs. A portion of funds are targeted for environmental issues, including over \$283 billion to California's Clean Water State Revolving Fund for loans and grants for wastewater treatment systems, nonpoint source implementation, and estuary enhancement.

8. *What is the board doing to ensure that the region benefits from ARRA funding?*

Staff has been helping local watershed groups and RCD's access information in Sacramento that will help them locate funding opportunities. We have been trying to assist grantees; particularly in our TMDL watersheds to prepare proposals. We have an adequate list of interested small wastewater systems.

## **California State Budget Crisis**

California's dire fiscal situation has affected all parts of state government.

9. *How do you, as a board member, stay informed of the fiscal resources available to your board? How does your board prioritize activities if not all can be undertaken? What are your priorities?*

Our EO and assistant EO provide us with budget information at every board meeting. They also provide us updates when situations arise through e-mail communications.

We move forward on those items that the State Board and /or Cal EPA have a mandate on. Example: TMDL's. We must attempt to stay on top of our enforcement in order to generate the revenue and give "teeth" to our bite. In these, and our other charges we should never forget our first and primary responsibility, that is, to protect the waters of the state for their beneficial uses and properly serve the people of the State of California.

## Enforcement of Water Quality Laws

Several years ago, the Office of the Secretary of Cal/EPA reported to the Legislature on environmental enforcement and suggested that the state and regional water boards were among the worst agencies in enforcing the law.

The report stated that the boards were very slow to enforce clean water laws, almost never sought criminal penalties for serious violations, and generally did not aggressively pursue violators.

10. *What enforcement options do you believe provide the most effective tools for violations of board orders?*

*When the violator falls under the requirements for a compliance project, this allows for a portion of the fine to be paid in cash and a portion to go towards site compliance. When a violator does not qualify for this, fines are our only recourse. This is very hard for small community systems. They often do not have the money to bring their systems up to date, therefore fines just set them back even more. The MMP's are very difficult for small rural systems to meet.*

11. *What staff is available to assist you in enforcing water quality laws? Is the number of staff adequate for enforcement purposes? If you must prioritize enforcement efforts, what are the priorities and how are they determined?*

We have an enforcement team that deals with all enforcements. No, the number of employee's is not adequate. Enforcement deals with those who pose an imminent threat to water quality first. Violators who have exhausted all of our staff's good faith efforts and have been "on the books" for a while also need to be dealt with. It at times can be a challenge with the minimal staff we have.

## Harmful Algal Blooms and Klamath River Total Maximum Daily Loads

Blue-green algae blooms have been found in the Klamath River, Big Lagoon, and the Eel River. A study by the Center for Integrated Marine Technologies (CIMT) points out that these blooms negatively affect fish, marine mammals, and seabirds. Some algal species cause large fish kills by clogging up or lacerating the fish's gills.

The CIMT report said that there is growing evidence that human contributions of phosphorus and nitrogen are causing the blooms to occur more frequently and contributing to their duration and severity. A presentation to your board on December 11 discussed the total maximum daily load (TMDL) process for the Klamath River. Staff said that 76 to 80 percent of the phosphorus and nitrogen would have to be eliminated in the river to achieve TMDL compliance. Staff also indicated that the TMDL would not directly deal with blue-green algae.



12. *How serious are the negative effects of algal blooms on fisheries and marine mammals? How does your board currently determine the seriousness of those effects?*

*Our staff has received training at technical workshops concerning the blue green algae and its affects. Staff has and will continue to work closely with the Office of Environmental Health Hazard Assessment, Department of Public Health, and the USEPA. This relationship will provide our board with the information needed on blue green algae.*

13. *How is the adoption of the Klamath River TMDLs integral, if at all, to the broader discussion of poor water quality and dam removal on the river?*

Both federal and state law gives the bistate TMDL's and their implementation the regulatory tools to clean up the pollution in the river. The Klamath River TMDL will provide a comprehensive examination of pollution sources and remedies. This TMDL will play a vital role in the future of the Klamath River.

## **Emerging Contaminants**

New and emerging contaminants may be present, but not detected. Among these are pharmaceuticals and personal care products, industrial chemicals present at low concentrations, and chemicals that may affect the hormone system, referred to as "endocrine disruptors."

Additionally, new testing by independent organizations has turned up pharmaceuticals and over-the-counter medicines affecting drinking water supplies across the country. While the findings reported by the *Associated Press* in March 2008 involve miniscule amounts of various pharmaceuticals, concerns over long-term consequences to human health and possible additional testing have resurfaced.

Under current law, required testing and standard limits for pharmaceuticals and over-the-counter drugs in drinking water are minimal. Beginning in January 2008, several water systems began monitoring under the U.S. Environmental Protection Agency (U.S. EPA) Unregulated Contaminant Monitoring Regulation for contaminants selected from the contaminant candidate lists. These are potential contaminants that U.S. EPA may regulate in the future. Federal and state laws give authority to U.S. EPA, the California Department of Public Health, or the regional water boards to regulate contaminants, which could include pharmaceuticals.

The Department of Public Health has developed draft regulations and is proposing to require an analysis of specific unregulated chemicals and report detections for certain

groundwater recharge and reuse projects. These chemicals include pharmaceuticals, endocrine disruptors, and other wastewater indicator chemicals.

14. *To what degree should the state water board, regional boards, and the California Department of Public Health coordinate with one another to mandate testing and set safety limits for drugs in drinking water? Do you believe this is an issue that should be dealt with on a region-by-region basis?*

*Because our waters often cross region and state boundaries it would be difficult to uphold water quality standards in our region alone or in our state alone. I would suggest that this situation may be one better addressed by the USEPA. In doing so, standards can be set on a nation wide basis; to ensure water quality, as it meanders its way through our nation to the sea.*

15. *Is your board monitoring these and other emerging contaminants? How are you informed of new sources of pollution?*

*We have no monitoring program in place at this time. We are currently waiting for direction from the SWRCB.*

## Statement of Goals

1. What have been your most significant accomplishments as a member of the North Coast Regional Water Quality Control Board?

### Answer:

The most significant accomplishment I feel I have obtained is the education and wisdom gained via discussions with the long tenured board members and staff. Workshops, seminars and board meetings have enlightened me to current issues. Listening to permittees, environmentalists and other concerned entities have given me various perspectives which have assisted in my decision making.

Representing municipal government I have also focused on the impacts of issues and regulations regarding communities in my region. I feel I have made accomplishments in recognizing the impacts to these communities and bringing together productive communication between water board staff and permittees in furthering cooperative compliance.

I am an active participant in the League of California Cities and have become a committee member to the Water Use Group which is looking to develop a better, closer relationship with the State Board and Regional Boards. I am currently on a list to interview for an "At Large Director" position on the League's Board which has been a goal of mine to have an important say representing rural communities in northern California. There are current important issues on water legislation which the board has final say for recommendations to the legislature and Governor. Water legislation will become even more present going into the future and it is necessary to provide reasonable assistance both economic and compliance friendly policy to all concerned permittees, agencies and the environmental population.

Maybe last but not least I have increased awareness of water issues, compliance procedure and water policy effecting our own community. I have communicated the importance of being proactive as a city council and the need to enhance the relationship between the city staff and regional board.

2. What do you hope to accomplish during your current tenure as a member of the board? What goals do you have for the board, and how will you accomplish them? How will you measure your success?

### Answer:

Increasing my knowledge of water issues and policy enhances my ability to make reasonably good decisions regarding compliance enforcement. It is my goal to become a better board member by continuing my education via training, using the water board website and learning from the experienced board members and staff.

I hope to accomplish some of the goals I focused on during my first 2 years as they still present an ongoing challenge. Encouraging providers, dischargers, environmentalists and other affected entities to take a more proactive approach in water policy compliance and to develop a more positive working relationship with water board staff. The workshops have been a fairly successful approach in working toward this goal and has been valuable in development of policy and procedures.

Senate Rules Committee

JUN 22 2005

appointments



One of the big challenges for our regional board is to implement a backlog of TMDL's and in this time of budget woes presents great concern in accomplishing this task. Streamlining procedure and use of staff time looks to be an avenue of some relief and the board needs to be creative in planning to address these issues. Litigation is expensive and therefore we need to be good stewards in budget planning, spending and monitoring.

The North Coast Region faces many challenges due to it's size, remoteness and resources. It should be the goal of this board to focus on cost effectiveness in all areas and implement the fore mentioned actions which in part has been taking place recently.

Communicating and working with the state board will play an important role in our need to accomplish regional board goals and working as a team will have a positive impact in our effectiveness. Our success will be measured by the failures of our past and the new foundation laid down on how things are done and how money is spent.

3. What do you believe are the most critical issues currently facing the board?

Answer:

- **Budget** – This is the biggest challenge before us because of the cuts, reductions and impact on staffing issues. We are challenged to be more efficient with staff assignments and dollars to implement studies, TMDL's, projects, etc... The regional water board is understaffed and under funded in many areas.
- **Storm water runoff** – This entails many issues and also will be a challenge to implement and enforce and is very costly.
- **Litigation** – This is always a critical issue due to precedent setting surprises and the potential costs that are difficult to anticipate.
- **Water storage** – Very big issue facing the state because our quality of life depends on it and the population growth of the state is running ahead of the available quantity of water storage.
- **Septic system policy** – the challenge to implement a policy that is fair and reasonable to the discharger.
- **Emerging Contaminants** – Seems to be growing at a rate that is a great threat to health and the expense to resolve this threat again is a burden on the budget and the rate payer.
- **Monitoring** – Much of the region's waterways are not very accessible by road. Aerial surveillance becomes a vital component for evaluating quality and determining problems. The region gets approximately \$200,000 to measure permit compliance, identify ground/surface problems and implement TMDL's.
- **Permitting and Enforcement** – Keeping up with the NPDES permit workload is a worthwhile accomplishment while on the other hand resources fall short of being adequate for reissuing permits and doing follow-up to determine questionable discharges to land that may affect water quality.

## State and Regional Board Roles

The issues addressed by regional water boards are often scientifically complex. Preparation for hearings can be time consuming for board members, particularly considering these are part-time positions.

4. How do the state board and the North Coast board assist you in understanding and analyzing complex issues before your board?

Answer:

*State water board staff have held workshops and presentations on current and upcoming issues dealing with complicated content which has assisted me many times. I take advantage of these opportunities and the experts layman presentations do lend themselves to better understanding. This has allowed me to break down the information for my analysis which in return gives me a head start when the issue hits the regional board meeting.*

*The water board website is a good resource also which is kept well informed and updated. Both the state board and North coast board maintain their sites well.*

*Regional staff are always at my disposal and I receive periodic e-mails with attachments that keep me updated on current issues. Other materials (publications, DVD's, etc...) from various resource entities are forwarded to me which also help with specific issues.*

5. What training have you received to help you better understand when you might have a conflict of interest regarding an issue on your board's agenda? How do you know when to withdraw yourself from voting on an issue?

Answer:

*I have received the training on ethics and legal issues both from the water board legal staff (initial orientation), the City of Rio Dell and the water board's website interactive course.*

*The regional counselors will point out potential conflict issues prior to meetings as necessary and appropriate. I will also refer to them myself if I have a doubt regarding my participation.*

*I have received memos and other documents given to me by counsel regarding conflict of interest for my reference.*

*I withdraw myself from voting on an issue when the issue involves my participation in the decision making process or even if it appears that I'm connected to the process which would result in a benefit to myself or to an entity I represent.*

*I can usually decide or determine if I may have a conflict of interest and during those times I simply recuse my self from discussion and voting.*

## **Public Outreach**

This board covers an expansive region of the state, encompassing a total area of approximately 19,390 square miles, including 340 miles of scenic coastline and remote wilderness areas, urban areas, and agricultural land.



6. *How does your board assist the public in understanding the state of water quality in your region? Do you believe that the information on your Web site is adequate?*

Answer:

*The public learns or gains understanding the state of water quality initially via the process of the regional boards Triennial Review process. The review considers priorities (all tied to the Basin Plan) for planning purposes.*

*The Review (available to public on state board and regional board web sites) explains the process by categorizing it's various components and contains all or most information regarding the status of water quality. I believe or know (in my opinion) that the regional water board web site is more than adequate for most inquiring people. The regional board site is also linked to the state board site as well as some others.*

*Other ways the board assists the public in education of water quality status are:*

- Publications – distribution of materials such as handouts/mailouts, news articles, etc...*
- Workshops – the regional board holds public workshops from time to time which will or may discuss the state of water quality concerning general and specific bodies of water.*
- Staff presentations – regional staff travel throughout the region at times to do presentations regarding water quality on various issues.*

7. *What do you believe are the most effective means of communication to inform the public on more immediate water quality issues, such as beach closures and sewage spills?*

Answer:

*I believe the most effective means of informing the public for situations mentioned above would be handled similar to that of emergencies for the purpose of highlighting the importance of the message. It is pertinent to distribute information of this type in a quick simple way.*

*Coordination between water board, County Health Department (including other health agencies) and the media can disburse necessary health hazard announcements in a timely manner. Postings, radio & TV announcements and other means of alerting the public are important as well as posting needed info on the water boards web site.*

## **Federal Economic Stimulus Funds**

Governor Schwarzenegger has stated in his Environmental Action Plan that he will fully implement existing water quality programs, such as municipal storm water permit programs and Total Maximum Daily Loads (TMDLs) programs, which are required under the Federal Clean Water Act to improve water quality by limiting the amount of pollutants allowed into water bodies.

Currently, regional water boards lag far behind their adopted schedules for cleaning polluted or impaired waters, and existing monitoring programs make it difficult to identify other waters that may be polluted.



3. What is the board doing to ensure that the region benefits from ARRA funding?

Answer:

*The Governor's web site provides inquirer's searching for grant funding information regarding ARRA funding. The web page highlighting The American Recovery & Reinvestment Act of 2009 provides a step by step process in detail outlining it's purpose and application procedures.*

*The North Coast Regional Board has announced and educated the public to the ARRA grant funding program in cooperation with the state board at the regional office. Regional staff have made presentations to various entities about the funding and willing to assist some agencies, permittees, dischargers, etc... in the process of acquiring the grant dollars.*

*The regional board web site (also linked to Governor's web page) provides the link at [www.recovery.ca.gov](http://www.recovery.ca.gov) which provides all the information. The regional board has also conducted workshops on all funding opportunities.*

### **California State Budget Crisis**

9. How will the board monitor and enforce the TMDLs it has or will adopt?

Answer:

*Funds for monitoring are critically lacking and state funds are not sufficient to adequately monitor watersheds following TMDL development. Staff find it difficult to establish clear benchmarks and trends in order to prescribe necessary management from monitoring data.*

*Consistency in the use of monitoring techniques is necessary to provide dependable data in developing effective prescriptions hopefully resulting in good water quality.*

*Landowners are required to do monitoring in TMDL watersheds as part of TMDL Implementation Plans. This monitoring tends to be project specific and does not provide for the big picture.*

*TMDL enforcement is done through the regional board regulatory authorities and also by specific regulatory mechanisms provided in TMDL Action Plans. Again, monitoring and enforcement of approved TMDL's in Region 1 is limited by current funding.*

### **Enforcement of Water Quality Laws**

Several years ago, the Office of the Secretary of Cal-EPA reported to the Legislature on environmental enforcement and suggested that the state and regional water boards were among the worst agencies in enforcing the law. The report stated that the boards were very slow to enforce clean water laws, almost never sought criminal penalties for serious violations, and generally did not aggressively pursue violators.

10. *What enforcement options do you believe provide the most effective tools for violations of board orders?*

Answer:

*Regarding enforcement, the region established an enforcement unit which has a very active enforcement program. The region enforcement unit works closely with local District Attorneys as well as other state and federal agencies including CalEPA.*

*The board has a range of enforcement options:*

- Notices of violation*
- Administrative Civil Liability fines*
- Criminal charges*
- Compliance projects*

*Fines play a vital role in our enforcement program. Fining violators punishes the responsible party and provides deterrence. Fines are usually less appropriate when new programs are implemented and the regulated community is working to comply.*

*Whenever possible and appropriate I prefer compliance projects as the most desired option and effective tool used to enforce board orders. They provide a more positive avenue for violators and is a good direct method of resolving the problem. This type enforcement I believe encourages proactive participation in the development of water quality.*

*The board and its staff uses all of these options and applies what is appropriate. With the exception of Mandatory Minimum Penalties, staff generally use a progressive approach that is consistent with the SWRCB's enforcement policy.*

11. *What staff is available to assist you in enforcing water quality laws? Is the number of staff adequate for enforcement purposes? If you must prioritize enforcement efforts, what are the priorities and how are they determined?*

Answer:

*The regional board has an Enforcement Unit consisting of a Prosecution Team including regional counsel/state board counsel and maybe another staffer). An Advisor Team may consist of another regional counsel and the regional EO.*

*The number of staff adequate for our purposes depends on the issue (category), the complexity as well as a number of other factors which would identify priorities. Overall I believe our regional enforcement unit has cleaned up a back log of Minimal Penalties (priority #1) and addressing other categories (brownfields, non-point source, etc...).*

## **Harmful Algae Blooms and Klamath River Total Maximum Daily Loads**

Blue-green algae blooms have been found in the Klamath River, Big Lagoon, and the Eel River. A study by the Center for Integrated Marine Technologies (CIMT) points out that these blooms negatively affect fish, marine mammals, and seabirds. Some algae species cause large fish kills by clogging up or lacerating the fish's gills.

The CIMT report said that there is growing evidence that human contributions of phosphorus and nitrogen are causing the blooms to occur more frequently and contributing to their duration and



severity. A presentation to your board on December 11 discussed the total maximum daily load (TMDL) process for the Klamath River. Staff said that 76 to 80 percent of the phosphorus and nitrogen would have to be eliminated in the river to achieve TMDL compliance. Staff also indicated that the TMDL would not directly deal with blue-green algae.

12. *How serious are the negative effects of algae blooms on fisheries and marine mammals? How does your board currently determine the seriousness of those effects?*

Answer:

*Fisheries and marine mammals are threatened to various degrees depending on the water body, environment, habitat, species, location and other factors such as temperature, nutrients, etc...*

*Our region is focused on such an issue. That issue exists on the Klamath River and comes with complexity as the Klamath River flows from Oregon into California. This involves the state boards participation as well as Tribal influence and other various federal and state agencies.*

*It's the nutrients in the water that provides for the growing of the algae and the TMDL needs to deal with the nutrients to establish compliance.*

*In determining seriousness of effects, the water body and it's factors determine if there is an impairment to beneficial uses and what the impairment is and the other factors that would initiate a TMDL. Regional staff have presented all information they have acquired to the board and made available to the public.*

13. *How is the adoption of the Klamath River TMDLs integral, if at all, to the broader discussion of poor water quality and dam removal on the river?*

Answer:

*Findings or evidence that the Klamath River is impaired (blue-green algae) has been forwarded to the board (submitted by various entities) which staff has been analyzing. Fairly recently the regional board passed a resolution (Resolution 2007-0028) regarding a Waste Discharge Requirement to deal with the issue.*

*The TMDL will identify and define the problems regarding the Klamath River and what it will take to neutralize the impairment. The dams on the river are accused as the culprits creating the ideal habitat for the birth of algae blooms. It's the theory that removing the dams will increase the flow and in that process the habitat for the algae will be removed.*

*The board realizes that the water body is impaired and that there is evidence of negative impact to the beneficial uses of the river and documented cases of health issues. There are many issues to be resolved by many interested and invested parties which have been working cooperatively (for the most part) and working toward progress.*

## **Emerging Contaminants**

New and emerging contaminants may be present, but not detected. Among these are pharmaceuticals and personal care products, industrial chemicals present at low concentrations, and chemicals that may affect the hormone system, referred to as "endocrine disruptors".



Additionally, new testing by independent organizations has turned up pharmaceuticals and over-the-counter medicines affecting drinking water supplies across the country. While the findings reported by the *Associated Press* in March 2008 involve miniscule amounts of various pharmaceuticals, concerns over long-term consequences to human health and possible additional testing have resurfaced.

Under current law, required testing and standard limits for pharmaceuticals and over-the-counter drugs in drinking water are minimal. Beginning in January 2008, several water systems began monitoring under the U.S. Environmental Protection Agency (US EPA) Unregulated Contaminant Monitoring Regulation for contaminants selected from the contaminant candidate lists. These are potential contaminants that U.S. EPA may regulate in the future. Federal and state laws give authority to U.S.EPA, the California Department of Public Health, or the regional water boards to regulate contaminants, which could include pharmaceuticals.

The Department of Public Health has developed draft regulations and is proposing to require an analysis of specific unregulated chemicals and report detections for certain groundwater recharge and reuse projects. These chemicals include pharmaceuticals, endocrine disruptors, and other wastewater indicator chemicals.

14. *To what degree should the state water board, regional boards, and the California Department of Public Health coordinate with one another to mandate testing and set safety limits for drugs in drinking water? Do you believe this is an issue that should be dealt with on a region-by-region basis?*

Answer:

*In this case I believe the lead agency should be at the state level. At this point this issue needs to be developed from higher levels due to the fact that we are in the beginning stages of identifying particulates and deciding what is to be regulated or not.*

*As we move along coordination between agencies should become a high priority in the development of policy regarding this issue. It is important to the big picture to compare information and data amongst the water boards and Department of Health. This will provide consistency statewide while specifics can be identified with the uniqueness of each region.*

*This is becoming an issue of high concern for many areas and people especially in agricultural and dairy communities. Livelihoods in this industry are dependant on the quality of water as the liability rest on the shoulders of their product not to mention the health risks to animals and themselves.*

*The majority of policy should be dealt with on a region-by-region basis (as most other issues) but not without coordination with the state board and Health Department in order to provide fairness and consistency.*

*There is some ongoing work dealing with contaminants by various groups and some cities have drug collection programs that I feel will catch on as we move forward with another big challenge.*

5. *Is your board monitoring these and other emerging contaminants? How are you informed of new sources of pollution?*

Answer:

*The short answer is no but there has been work done on the issue. The true question asks "Is there a real problem? There was a study done cooperatively between EPA, Region 1 and Region 2 referred to as "One Step Beyond" which is available on the boards web sites.*

*SWAMP is another organization which has a monitoring program which is available on the web sites including their own. These studies, in an effort to decide what to test for, identify and analyze particulates then evaluate the possible effects of those contaminants.*

*Results of studies come to the board in where we receive updates which are presented to the board at meetings. The public also gets an opportunity to get informed at these meeting and have their input recognized. Updated information is also available on the web sites.*





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Senate Rules Committee

JUN 17 2009

Appointments

May 20, 2009

Geoffrey M. Hales  
WQCB, North Coast Region  
Responses

### Statement of Goals

1. *What have been your most significant accomplishments as a member of the North Coast Regional Water Quality Control Board?*

Four accomplishments come to mind:

- (1) Building existing, and establishing new relationships with landowners and land managers in my region, (including industrial land managers, private landowners, and tribal representatives), and having the opportunity to meet with them, hear issues, and bring issues to staff for clarification and/or additional discussion
- (2) Providing technical representation to my Board on scientific water quality issues that other Board Members are unfamiliar with, as well as working with staff to provide technical review and prepare comment for some of the more significant issues in our region. Some of these significant issues include Basin Plan Amendments for sediment and dissolved oxygen, and review of water quality modeling to support Klamath River TMDL development.
- (3) Initiating direction to our E.O. for pursuing involvement with the Klamath River FERC relicensing Settlement Agreement process. Until this direction was given, our board was excluded from Settlement Agreement discussions and could not collaborate with Settlement parties while working on extremely relevant Klamath River water quality science and policy. This direction was supported by my Board and has resulted in our Region's active participation in the settlement agreement process.
- (4) Being elected Vice Chairman in 2008 and again in 2009. I am honored to represent the Board in this position.

2. *What do you hope to accomplish during your current tenure as a member of the board? What goals do you have for the board, and how will you accomplish them? How will you measure your success?*

In January 2008 I established the following goals:

- (1) To represent and act on behalf of all the people in my region.
- (2) To make fair and balanced decisions based on science and evidence. My professional

background is in water resources science, and I usually have a strong technical understanding of the issues presented to the Board which helps guide me in my decision making.

- (3) To be involved with Staff where my expertise can contribute, such as technical planning or policy development.
- (4) To increase my awareness of regional (and state) threats to water quality.
- (5) To recognize conflicts of interest and act accordingly.

I am confident that I have either met, or am making continued progress toward meeting these goals.

As for my Board, I have the following goals:

- (1) To be actively engaged with Staff so our TMDL schedule can be completed (e.g., Klamath River, Elk River).
- (2) To adhere to the priority list established in our most recent Triennial Review.
- (3) To identify where permitting requirements and specifications can be streamlined and integrated with similar requirements by other agencies (e.g., CDFG, Cal Fire) to reduce redundancies, effort, and cost to both the Board and to the landowner.

I measure my success based on my interactions with, and feedback I receive, from my fellow Board members, from Staff, and from the public or other entity that comes before the Board. The feedback I have received during my current tenure has been very positive, which is satisfying, encouraging, and motivating; to me, this directly translates to success.

### 3. *What do you believe are the most critical issues currently facing the board?*

Clearly the most serious issue facing my Board is the State budget crisis. Staff is working reduced hours, layoffs have been discussed (but to the best of my knowledge have not occurred), and to some degree I expect that overall morale has been reduced. My Board works to help establish protocols and procedures, but budget cuts reduce the effectiveness of implementing programs and enforcing water quality laws. If the budget is not amended, the situation can only go from bad to worse.

Other critical issues facing my Board include our TMDL adoption schedule, e.g., Klamath River TMDL development and integration with Oregon DEQ, and Agreement-in Principle (AIP) negotiations with PacifiCorp and the Settlement parties.

In 2008, I reported that one of the most serious problems facing our Regional Board is having Staff located in Santa Rosa, given our Region's geographic vastness and diversity. Some of the related complaints cited by Staff include enforcement ineffectiveness and poor representation. Our Board and Staff had discussed the feasibility and challenges of establishing branch offices in Eureka and Yreka, but the cost-effectiveness was questioned. Given the current State budget situation, pursuit of this issue has been suspended.

### **State and Regional Board Roles**

The issues addressed by regional water boards are often scientifically complex. Preparation for hearings can be time-consuming for board members, particularly considering these are part-time positions.



4. *How do the state board and the North Coast board assist you in understanding and analyzing complex issues before your board?*

Regional Board Staff have been very helpful, and are always willing and enthusiastic to have discussions to help improve my understanding certain issues. Regional Board Staff also provide frequent briefings on developing issues, which provides a forum for technical discussion and allows me to provide feedback. I also do my best to review and understand the issues being brought before the Board in advance of the Board meetings, and frequently engage staff in technical discussions to improve my understanding of technical or policy details. In addition to discussions with Staff, I frequently consult the Basin Plan to frame the context (and relevance) of my questions.

State Board assistance for my understanding comes primarily from the WQCC workshops, where linkages between regional issues and state-wide goals are explained.

5. *What training have you received to help you better understand when you might have a conflict of interest regarding an issue on your board's agenda? How do you know when to withdraw yourself from voting on an issue?*

Given my profession as a consulting geologist specializing in river ecosystems and related surface water issues, I am extremely cautious about issues coming before my Board that I have specific knowledge about (potential bias) or I have some professional association with the project that could be viewed as a conflict. When this happens, I contact my E.O. for technical background details, and then I contact counsel to review the details of the issue to help determine whether a conflict exists. Similarly, when I have the opportunity to participate in a new project professionally, I often check to be sure there are no ongoing issues with the Board that could make my involvement considered a conflict of interest. Professionally, I will exclude myself from projects and from discussions if I feel the potential for a conflict exists. I try to be acutely aware of potential conflicts, and so far I have not had to withdraw myself from voting on an issue.

My training to recognize a conflict includes: (1) introductory training from Phil Wyels following my initial appointment in 2007; (2) a training workshop and related discussion at the fall 2008 WQCC meeting; (3) discussions with fellow board member David Noren who is also a consultant in the environmental sciences; (4) frequent discussions with staff counsel; and, (5) completing the required ethics training following my initial appointment in 2007.

## **Public Outreach**

This board covers an expansive region of the state, encompassing a total area of approximately 19,390 square miles, including 340 miles of scenic coastline and remote wilderness areas, urban areas, and agricultural land.

6. *How does your board assist the public in understanding the state of water quality in your region? Do you believe that the information on your Web site is adequate?*

One of the most common and effective ways my board assists the public in understanding the state of water quality in my region is via public outreach and scoping meetings provided by staff. Staff is constantly traveling throughout our region to provide public workshops on issues currently affecting water quality. For example, workshops (and Board Member briefings) on the Federal and Non-Federal Timber Waiver were recently held public workshops in Fortuna on March 24, 2009 and in Yreka on April 8, 2009. Although these workshops were focused on the



timber waiver, discussion included many aspects of water quality impacts, from sources to solutions. Similar identification of issues and discussion of impairments occurred during the Elk River TMDL CEQA scoping meeting in Eureka on May 20, 2009. I believe these meetings are very effective means of public outreach, and give staff the opportunity to engage the public and help explain both impairments (problems) and solutions.

As for our website, I do think the information it contains is adequate. There is always room for improvement, but the site appears to be updated frequently, contains information on current issues, and provides useful links to related information. In addition, at the July 3, 2009 board meeting, Mr. Ric Costales of Siskiyou County complemented staff for a well developed and informative website listing for the 2008 Staff Integrated Report on the 305(b) and 303(d) listing. This direct public feedback supports my opinion.

*7. What do you believe are the most effective means of communication to inform the public on more immediate water quality issues, such as beach closures and sewage spills?*

As I understand the process, the State Office of Emergency Services (OES) is the primary respondent when spills that present threats to public health and safety are reported. As appropriate, OES will contact Regional Board Staff who will respond accordingly. Staff has informed me that all our sewage districts, cities and counties are well aware of the OES procedures, and most know who the primary regional board staff contact is. For severe cases where potential impacts to water quality and public health are imminent, my E.O. and Assistant E.O. are also contacted and engage in whatever public notifications are necessary.

As an example, this line of communication was performed in November 2007 when a diesel spill in Freshwater Creek (Humboldt County) occurred and presented an immediate threat to downstream residents. Our board received testimony from participating public safety agencies citing the effectiveness and success of this process.

Other effective means of communication include public service announcements (PSA) radio broadcasts, television news reports, notices on our Board website, and postings at the affected waterbody. Our Board has been involved with supporting decisions for posting for Blue Green Algae at Klamath River reservoirs.

## **Federal Economic Stimulus Funds**

On February 17, 2009, President Obama signed HR 1, the American Recovery and Reinvestment Act of 2009 (ARRA), which provides \$787 billion in economic investment nationally. The goals of ARRA are to jump-start the economy and create jobs for Americans in an accountable, transparent manner. California is the beneficiary of approximately \$50 billion for a variety of statewide programs. A portion of funds are targeted for environmental issues, including over \$283 billion to California's Clean Water State Revolving Fund for loans and grants for wastewater treatment systems, nonpoint source implementation, and estuary enhancement.

*8. What is the board doing to ensure that the region benefits from ARRA funding?*

Staff is currently facilitating communication with grantees that have projects that coincide with board priorities. To do this, staff is working with grantees, primarily in our TMDL watersheds (e.g., Scott River, Shasta River) to help them prepare for projects that are "shovel-ready". For these priority projects, staff is primarily working with RCDs based on our established working relationships and their understanding of the procedures needed to be ready should ARRA

funding come through for the project. Other entities staff is working with include small systems community service districts (CSDs) with needs that have already been identified and also have shovel-ready projects that require funding.

### **California State Budget Crisis**

California's dire fiscal situation has affected all parts of state government.

9. *How do you, as a board member, stay informed of the fiscal resources available to your board? How does your board prioritize activities if not all can be undertaken? What are your priorities?*

I stay informed of fiscal resources available to my Board primarily via weekly updates and discussions with my E.O. If all activities on my Board's agenda cannot be undertaken, our Board prioritizes activities by considering timelines and dependencies (e.g., Klamath River TMDL), severity or threats to public health and safety, and resource availability (staff and budget).

My priorities include the following:

- (1) Meeting TMDL schedules.
- (2) Streamlining permitting and reporting requirements to help minimize redundancy between agencies.
- (3) Completing Basin Plan amendments (sediment amendment, dissolved oxygen objective).

### **Enforcement of Water Quality Laws**

Several years ago, the Office of the Secretary of Cal/EPA reported to the Legislature on environmental enforcement and suggested that the state and regional water boards were among the worst agencies in enforcing the law. The report stated that the boards were very slow to enforce clean water laws, almost never sought criminal penalties for serious violations, and generally did not aggressively pursue violators.

10. *What enforcement options do you believe provide the most effective tools for violations of board orders?*

The Board has a variety of enforcement options it can exercise, including:

- Investigation Orders
- Cleanup and Abatement Orders
- Cease and Desist Orders
- Notices of Violation
- Administrative Civil Liabilities
- Mandatory Minimum Penalties
- Pursuing civil or criminal charges

Of these, the most effective tools are probably: (1) issuing Notices of Violation, (2) assessing Administrative Civil Liability fines, and, (3) pursuing civil or criminal charges.

Our region has an active enforcement unit which was established in response to lack of enforcement criticism. In addition, over the last year, staff has caught up with the Mandatory Minimum Penalty (MMP) backlog and has remained caught up. Staff is also working to review



the backlog of in-place Cleanup and Abatement Orders (CAOs) to either close out orders that have been completed and prioritize open orders requiring action.

11. *What staff is available to assist you in enforcing water quality laws? Is the number of staff adequate for enforcement purposes? If you must prioritize enforcement efforts, what are the priorities and how are they determined?*

I believe all staff are available to assist me in enforcing water quality laws. I have never had a problem with the willingness or availability of staff to help when I have questions or seek clarification on a particular issue. As for the adequacy of staff availability for enforcement purposes, I would say we are understaffed and the current number of staff available for enforcement is inadequate. As a result, enforcement actions are often complaint-driven rather than inspection-driven. If I must prioritize enforcement efforts, my considerations would include the severity of the action, the threat to public health and safety, and the significance of the water quality violation.

### **Harmful Algal Blooms and Klamath River Total Maximum Daily Loads**

Blue-green algae blooms have been found in the Klamath River, Big Lagoon, and the Eel River. A study by the Center for Integrated Marine Technologies (CIMT) points out that these blooms negatively affect fish, marine mammals, and seabirds. Some algal species cause large fish kills by clogging up or lacerating the fish's gills.

The CIMT report said that there is growing evidence that human contributions of phosphorus and nitrogen are causing the blooms to occur more frequently and contributing to their duration and severity. A presentation to your board on December 11 discussed the total maximum daily load (TMDL) process for the Klamath River. Staff said that 76 to 80 percent of the phosphorus and nitrogen would have to be eliminated in the river to achieve TMDL compliance. Staff also indicated that the TMDL would not directly deal with blue-green algae (actually, Staff is currently developing a TMDL for microcystin in the Klamath River reservoirs with specific numeric targets).

12. *How serious are the negative effects of algal blooms on fisheries and marine mammals? How does your board currently determine the seriousness of those effects?*

I have not had the opportunity to obtain and review the CMIT report, but I certainly do not dispute the finding that Blue-green algae (BGA) blooms negatively affect fish, marine mammals, and seabirds. I assume the BGA blooms the CMIT report studied contain microcystin, which is a hepatotoxin (i.e., it affects the liver by physically disrupting cells and causing liver dysfunction), so I am not surprised that a linkage has been established between BGA and the animals that have habitats where blooms occur. In addition to known effects on fisheries, marine mammals, and seabirds, there is also strong evidence microcystin has harmful effects on dogs. In 2006, the Humboldt County Department of Health and Human Services issued a fact sheet for animal health workers and interested parties citing 9 dog deaths since 1991 following contact with water bodies in Humboldt and Mendocino counties (Big Lagoon and South Fork Eel River) that strongly suggests BGA poisoning. These findings are all in addition to the suspected harmful effects on humans.

Blue Green Algae (BGA) is symptomatic of hypereutrophic conditions. In some areas, such as



the Klamath River reservoirs, these conditions are controllable and can be managed. In other systems, such as Big Lagoon, these conditions cannot be controlled (Big Lagoon can become hypereutrophic when the lagoon does not breach and nutrient concentration is extremely high). Controllable environments where BGA blooms occur should be recognized so contributing factors (i.e., nutrient loading) can be managed, such as the microcystin TMDL currently being developed for the Klamath River reservoirs. Uncontrollable environments where BGA blooms occur should be monitored and the public notified as appropriate when blooms or suspected conditions are present that pose a health risk. In all cases, the public should be notified when BGA blooms occur and the potential health risks posted.

Based on the above information and the water bodies in our region that are known to have BGA blooms, I believe it is essential for our Board to remain diligent in our awareness of BGA and consider these blooms to pose a potentially serious threat to human and animal health. Our Board relies largely on staff and regional technical expertise to determine the magnitude and severity of BGA blooms. Because of this, our Board must remain aware of developing science to help increase our knowledge of BGA (e.g., environmental conditions and health effects) so we can adapt our actions as appropriate.

*13. How is the adoption of the Klamath River TMDLs integral, if at all, to the broader discussion of poor water quality and dam removal on the river?*

The TMDL is directly related, integral, and essential to improving water quality on the Klamath River. Beneficial uses must be met to meet our water quality objectives. Currently, water quality standards (numeric and narrative) are not being met, and certain management actions are necessary to improve these degraded conditions. Improving streamflow management on the Klamath River is essential to improving water quality; this can be achieved by: (1) removing the dams to help restore unregulated flow conditions, or (2) keeping the dams and better managing downstream flow releases to mimic natural streamflow hydrograph components. Removing the dams and restoring unregulated streamflow can improve sediment dynamics, improve water temperatures, and restore access to upstream anadromous fish habitat (i.e., positive biological responses to expected physical changes). If the dams remain, improved streamflow management has the potential to improve water temperatures, but could require coarse sediment management to help replenish in-channel storage and supply and would not improve anadromous fish access. Both a "dams in" and a "dams out" scenario are currently being evaluated by staff given the uncertainty of whether the Settlement Agreement will commit PacifiCorp to dam removal or not. Regardless of the outcome, a TMDL and implementation plan will be developed that is designed to meet load allocations which represent attainment of water quality standards and satisfying basin plan objectives.

The TMDL and its implementation plan represent a bi-state analysis and approach with Oregon, and it is my understanding that a Memorandum of Agreement for TMDL implementation is expected to be signed sometime this month (June); this represents a significant cooperation between our states. Moreover, it is my understanding that the TMDL is the only document in the basin aimed specifically at water quality. By not adopting the TMDL it is unclear how water quality standards and basin plan objectives will (or can) be met, let alone enforced.

## **Emerging Contaminants**

New and emerging contaminants may be present, but not detected. Among these are pharmaceuticals and personal care products, industrial chemicals present at low

concentrations, and chemicals that may affect the hormone system, referred to as "endocrine disruptors."

Additionally, new testing by independent organizations has turned up pharmaceuticals and over-the-counter medicines affecting drinking water supplies across the country. While the findings reported by the *Associated Press* in March 2008 involve miniscule amounts of various pharmaceuticals, concerns over long-term consequences to human health and possible additional testing have resurfaced.

Under current law, required testing and standard limits for pharmaceuticals and over-the-counter drugs in drinking water are minimal. Beginning in January 2008, several water systems began monitoring under the U.S. Environmental Protection Agency (U.S. EPA) Unregulated Contaminant Monitoring Regulation for contaminants selected from the contaminant candidate lists. These are potential contaminants that U.S. EPA may regulate in the future. Federal and state laws give authority to U.S. EPA, the California Department of Public Health, or the regional water boards to regulate contaminants, which could include pharmaceuticals.

The Department of Public Health has developed draft regulations and is proposing to require an analysis of specific unregulated chemicals and report detections for certain groundwater recharge and reuse projects. These chemicals include pharmaceuticals, endocrine disruptors, and other wastewater indicator chemicals.

14. *To what degree should the state water board, regional boards, and the California Department of Public Health coordinate with one another to mandate testing and set safety limits for drugs in drinking water? Do you believe this is an issue that should be dealt with on a region-by-region basis?*

I believe this is a topic that has been largely overlooked until recently, and I am pleased to see the momentum that has been gaining over the past couple of years to focus on this issue. We have heard public testimony from concerned citizens regarding pharmaceuticals and endocrine disruptors, and certain organizations have started community outreach programs to educate the public on the proper medicine disposal. I am pleased with these efforts to broaden the general public's awareness. I also believe this is an issue that should be dealt with on a statewide basis (rather than on a region—by-region basis), with threshold contaminant levels established based on direct and indirect human health effects.

15. *Is your board monitoring these and other emerging contaminants? How are you informed of new sources of pollution?*

It is my understanding that the State Board has assembled a panel of leading scientists to determine what should be monitored and how monitoring should be conducted. Once this happens (contaminants have been identified and monitoring protocols established), my board can move forward with monitoring programs for these emerging contaminants. In the interim, my board is not taking action on monitoring emerging contaminants.

Recently my largest information source for emerging contaminants has been via public testimony from concerned citizens. I also occasionally hear about emerging contaminants through professional conversation (e.g., with fellow consultants in the groundwater industry who have used these contaminants as indicators for groundwater migration from failing wastewater systems). I also feel that I can rely on the technical expertise of staff, who can

point me in the right direction if I have a particular question.





**John H. Muller  
Responses  
WQCB, San Francisco Bay**

June 7, 2009

**Senate Rules Committee**

JUN 11 2009

**Appointments**

Ms. Nettie Sabelhaus, Senate Rules  
Committee Appointments Director  
Room 420  
State Capitol  
Sacramento, CA 95814

Subject: Responses to Senate Rules Committee Questions from the Honorable  
Darrell Steinberg, Chairman of the Senate Rules Committee, as Part Of  
Confirmation Process for Regional Water Quality Control Board Appointment

Dear Ms. Sabelhaus:

The following written answers are in response to your letter of May 11, 2009 requesting a response to questions for the upcoming Senate Rules confirmation hearing regarding my reappointment to the San Francisco Regional Water Quality Control Board on July 8, 2009.

**STATEMENT OF GOALS**

- 1. Since 1995 when you were first appointed, what have been your most significant accomplishments as a member of the San Francisco Regional Water Quality Control Board?**

There have been many accomplishments during my twelve years on the Regional Board. My definition of accomplishment is that we ensure we continue to protect the water quality and environment in our region, which we all work very hard to do. Every issue we study, vote on and bring to the surface is an accomplishment as it continues to move water quality forward.

After over eleven years of working on the Mercury TMDL, it finally was adopted by our Board. This is an important issue that many past and present Boards have worked hard to achieve. This was a top priority facing our Board and a major accomplishment. We continue to work on the most important TMDL's for our region.

In 2007 the board released a report on trash pollution in our region which found all 14 watersheds in the region had high levels of trash. In our draft municipal Regional Stormwater Permit trash was identified as a pollutant of concern. In February the board released its order on SF Bay Region Municipal Regional Stormwater NPDES Permit which includes a provision for trash control. We will be working on along with the storm water issues of all the municipalities

in the bay area. The first accomplishment is recognizing the problem. We have a plan and are moving forward to further accomplish the goal of reducing trash pollution

**2. What do you hope to accomplish during your current tenure as a member of the Board?**

I want to see us continue to enforce all the rules and regulations of the Clean Water Act and the Porter-Cologne Act, both as a Regional Board member, and presently as Chair. Accomplishing this during the current economic climate will be a challenge, indeed, but we will continue to strive for success.

**3. How does your board help the public understand the state of water quality in your Region?**

We continually monitor and update our website so that current information is always available. The Water Board regularly produces "fact sheets" for the public about water quality issues; The Regional Monitoring Program (RMP) is managed by the SF Estuary Institute which issues a publication Pulse of the Estuary which is for the public; The Water Board is working more closely with county health departments to ensure that the health departments have up to date water quality information and are making water quality and public health information available to the public.

**4. As of April 8, 2009 there are no minutes of the board's meetings since April 9, 2009, listed on the board's Website. Generally, how long does it take to place the board's minutes on its Website? How do you monitor the way in which your board communicates with the public?**

As you are well aware, there have been serious financial challenges with the state. This has been a staffing issue which has been taken care of. Generally, of course the minutes should be posted in a timely manner. I keep in touch with the Executive Officer and staff offering suggestions and encouragement to do the best they can with the limits that have become a reality. Even paper purchases are being limited now.

**STATE AND REGIONAL BOARD**

**5. What is your view of the relationship between the state board and your Regional Board? What type of guidance do you receive from the state board?**

These two boards are working much better together. The State Board has a monthly Chairs' conference call for updates and information. This is a big step forward which will even better support informed data facilitating for the decision making process. State Board members and staff are also available to answer our questions and concerns when needed. An open door policy helps with clarification on all-important issues.

Our state board liaison member attends all our regularly scheduled board meetings and as Chair I give her the opportunity to update us on all issues relating to state and regional board activities.

In my opinion, during the past twelve years, I feel we have the most qualified, dedicated and informed board members in the state! A big advantage is in having a fully seated Regional Board is that there is a healthy, diverse membership from such different backgrounds. This



leads to more shared expertise and open information made available allowing even better decision making abilities possible.

From staff, Board members receive excellent staff reports, staff summary reports and presentations that explain and analyze the complex issues in understandable terms. Staff also provides Board members less formal monthly report items that keep both Board members and the public abreast of issues and cases as they evolve. Additionally, Board members have easy access to the Executive Officer of the Board for answers to questions.

**6. What is the best use of the board's time? Should the board focus on the permitting process or focus on broad policy issues, such as updating basin plans and setting regional priorities? Or can the board reasonably be expected to accomplish both?**

Our number one role is to hold workshops and public hearings on all issues before us. You really cannot pick just one. We have continued to do all these activities. We have focused on the permitting process and broad policy issues. We continue to update our basin plans and set regional priorities. We must do our best to accomplish both as we work with US EPA to accomplish these goals.

**7. Has your board developed or discussed creating a mechanism that would let the public know if the waters in your region are becoming cleaner and by how much?**

We listen to all the Bay Area Agencies (Save the Bay, Water Keepers, Communities for a Better Environment, etc) as well as receive information from them and forward this on to the public through the Board's website and outreach programs. Also please see the answer to question 3.

**8. Do the state board and your regional board staff assist you to better understand some of the complex issues before you if you request help? If now, where do you seek help when you need it? Do you have any suggestions on how the state water board's staff might better assist you?**

The State Board and our Regional Board staff always are available to answer any questions we might have. State staff is doing a great job, we have a liaison to our monthly meetings and we have our monthly Chairs' call. They all are doing a good job and we have come a long way over the past twelve years!

## **ENFORCEMENT**

**9. What is your view on how your board should enforce water quality laws? When are fines and penalties appropriate and when are more informal actions necessary?**

There is really no one most effective option to enforce violations of board orders and water quality laws. Since the circumstances of each violation differ, the most effective enforcement option may differ from violation to violation. Fines and penalties play a major role in publicizing the need to comply with the Porter-Cologne Act, penalizing those who violate the Act, and deterring the party in violation and other parties from future violations of the Act. It may not be appropriate to fine small businesses or individuals that may be forced to go out of business to pay a fine. Oftentimes it is better to use enforcement options available under Porter-Cologne to ensure the involved parties clean up the impacts of their violations.

**10. Without a current formal state board policy on enforcement, how does your board determine if it is consistent in its enforcement practices with other regional boards?**

Our jobs must be done and our Water Board continues to rely on existing State Board enforcement policy that will be valid until it is revised. Our Water Board staff participates with the State Board's Office of Enforcement and other regions in enforcement roundtables to review enforcement actions from around the state and to make sure we have consistency. Our Water Board is represented by the attorneys from the State Water Board's Office of Enforcement in many of its enforcement actions, and those attorneys do provide a state wide perspective.

**TRASH POLLUTION**

**11. How might the Municipal Regional Storm water Permit affect the deposition of trash in the region? Should other improvements be expected?**

As stated in your prologue to this question, the February 2009 draft of the Municipal Regional Stormwater Permit includes significant requirements for trash controls by all the municipalities it covers. I believe this Permit covers 77 local agencies, so it will be the first major regulatory vehicle requiring trash control in this region!

Based on comments and testimony given in May regarding the February 2009 draft, the Water Board directed its staff to ensure that the Permit focuses controls on those areas listed as impaired, requires implementation of trash control measures over this 5 year permit cycle within the financial abilities of the cities, and implements cost effective measures for figuring both the reduction in trash and whether other water bodies in the region have been harmed.

Also, the Water Board expects to use the Stormwater Permit as its main means to regulate trash pollution. However, over the next few years, those local agencies not covered by this Stormwater Permit will also be required to implement similar trash control methods as those required by the Permit. We have made good progress. I guess there always is more that can be done, but we all must start somewhere.

**12. How do you see the designation of part of the bay as impaired by trash? How will you use the designation if adopted by the federal EPA?**

It is quite likely more water bodies will be listed as impaired by trash in future listing processes. The 2008 listing process established the assessment methods that will be used to analyze other water bodies in the future. This is based on the trash assessments analyzed by staff as part of the 2008 listing process established the assessment methods that will be used to analyze other water bodies in the future.

The listing of 26 water bodies as impaired by trash has already raised the profile of trash pollution and its impacts. While stating that they have financial limitations in how to control trash, most commenters on the Municipal regional Stormwater Permit agreed that more effort was needed to control trash pollution in the Bay and its watersheds.

Because requirements to control trash in the Stormwater Permit is included, it may not be necessary to implement TMDLs if the federal EPA adopts the 26 trash listings. However, such

an impairment designation would clearly indicate to both the regulated community and the public that the control of trash pollution to the Bay is a high priority for the Water Board

## **POTRERO POWER PLANT**

### **13. Now that the Supreme Court case has been decided, how will the board proceed in addressing the issues of once-through cooling and environmental effects of the Potrero Power Plant?**

Addressing the impacts of once through cooling water systems at the Potrero Power Plant and at the other power plant in the region using a once through cooling water system remains a high priority for this Board.

The State Board has indicated that it expects to circulate a draft statewide policy for once-through-cooling water systems, consistent with the Supreme Court case soon--early summer 2009! Once that policy is adopted, this Water Board will apply it to both of these power plants by reissuing their permits consistent with the statewide policy. This will be before us soon, and we will be ready.

In conclusion, I would like to thank you for the opportunity to answer these questions. I look forward to being able to continue to work for the betterment of our state and environment. I appreciate the ability to further be a caretaker of the earth.

Sincerely yours,

John H. Muller





Dr. Bameshwar Singh  
WQCB, San Francisco  
Responses

May 28, 2009

TO: Senate Rules Committee Appointment Director  
California Legislature  
Room 420, State Capitol  
Sacramento, CA 95814

Senate Rules Committee

JUN 03 2009

Attention: Nettie Sabelhaus

Appointments

Dear Madam,

I am submitting my response to your questions regarding my appointment to the San Francisco Bay Regional Water Quality Control Board. I am also including form 700, Statement of Economic Interest.

### Statement of Goals

1. *Since 2008 when you were first appointed, what have been your most significant accomplishments as a member of the San Francisco Regional Water Quality Control Board? What do you hope to accomplish during your current tenure as a member of the board? How will you measure your success?*

*Besides acquiring the knowledge of Water Board functions, I contributed by refining the permitting requirements wherever possible, suggesting language to new TMDLs such as for mercury and PCB, emphasizing the need to utilize ACL monies locally to the extent allowable to implement water quality projects, urged the Board and staff to invite media to publicize significant water quality issues, and requested greater outreach efforts to educate public about the importance of improving the quality of all waters and sustaining it for the future generation. I have been active participant in Board deliberations and offered my suggestions, amendments, and refinements regularly. I have attended all Board meetings since my appointment. Significant achievements can be listed as follows:*

- *Development and implementation of TMDLs for mercury, PCB, sediment, and Tomales Bay watershed.*
- *Enforcement of sewage spills with ACLs of \$4 million and requirement to upgrade the sewage collection systems.*
- *Progress in South Bay Salt Pond Restoration Project.*
- *Enforcement action and progress in controlling discharges from Suisun Bay mothball fleet.*
- *Inclusion of creeks in 303D list and encouragement to clean the creeks.*
- *Emphasis on trash clean up.*

*My goal is to steadily work toward improving the quality of surface, underground, saline, estuarine waters for health and wellbeing of all living beings. There are challenges with dealing with legacy and emerging chemicals. Technological and scientific developments will assist us to treat many chemicals in a cost effective way.*

*The success in measuring water quality improvements is judged by finding no mercury in Bay fish, by decreasing number of creeks on 303D list, having fewer sewage spills in the Bay, by restoration of Bay Salt Ponds, improving the aging water system infrastructure, and so on.*

2. *What do you believe are the most serious problems facing your regional board?*

Some serious issues:

- Aging infrastructure results in sanitary sewer overflows and wastewater treatment plant spills. Federal stimulus funds will not be enough to fully repair and upgrade this infrastructure. We are also facing problems due to the budget deficits by all governmental jurisdictions due to downturn in the economy.
- Control of trash and other urban runoff pollutants is lagging in other parts of California, but local stormwater agencies have limited funding to address this problem.
- Legacy pollutants, such as mercury, pesticides, and PCBs continue to impact the Bay even with Board-imposed TMDLs in place.
- The recession has resulted in slowing of site cleanups and abandonment of water quality controls at some development sites.
- Slowing disbursement of bond funds threatens many of the organizations that implement the grants that these bonds fund.

3. *How does your board help the public understand the state of water quality in your region? Where should the public go for information on water quality issues such as beach closures, sewage spills, or the overall quality of water in rivers, streams, and the ocean in your region?*

- Over the past year, the staff has been constantly upgrading our website to provide improved information on water quality issues and policy setting and provide links to water quality data.
- In the early 90s, the Water Board required all dischargers to develop and participate in the Regional Monitoring Program for Water Quality in the San Francisco Bay Estuary (RMP). The RMP's annual Pulse of the Estuary publication, available both in hard copy and online, is widely recognized as the best tool in the State for informing the public about status and trends of our major water bodies.
- The Water Board regularly produces "fact sheets" for the public about water quality issues about groundwater cleanup sites.
- While counties are responsible for posting information about beach closures on their websites, data on local water bodies other than the Bay, collected through the State and Regional Water Board's Surface Water Ambient Monitoring Program (SWAMP), is posted on our web page. Also, this Water Board is participating with other State agencies in developing the California Environmental Data Exchange Network to house SWAMP and other water quality data, which will provide public answers basic questions like which water body is safe to swim in.
- Recently, the Board has been emphasizing media publicity and public outreach.
- The Water Quality Control Board staff is always available to answer questions from the public and media.



4. *As of April 8, 2009, there are no minutes of the board's meetings since April 9, 2008, listed on the board's Web site. Generally, how long does it take to place the board's minutes on its Web site? How do you monitor the way in which your board communicates with the public?*

- I have discussed with the staff about the broken links on our website. Water Board staff has completed a major redesign of our website over the past year to conform to the Governor's directive. However, not all links are active, and our webmaster has been working to restore all links.
- Staff's standard procedure is to have all Board actions, such as adoption of orders and minutes, signed digitally, transmitted electronically to interested parties, and posted on our website within a week of the action.
- The Board follows up with staff to ensure regular use of press releases, fact sheets, and other public outreach materials.

## **State and Regional Boards**

The state and regional boards were created nearly four decades ago. In January 2009 the Little Hoover Commission issued a report on improving the performance of the state's water boards. One of the findings was that the relationship between the state and regional boards is not well-defined. This has led, they believe, to inconsistencies and inefficiencies among boards, an inability to set statewide priorities, and a lack of focus by the state board on holding regional boards accountable for clean water outcomes.

The report also found that there is little focus on clean water outcomes or accountability. Regional boards admit they have difficulty in analyzing watersheds to determine whether their programs are protecting and improving water quality. Regional water boards' focus is more on issuing permits and determining whether dischargers abide by permits than determining if the water is actually getting cleaner.

Another issue that has been raised in the past, and also discussed in the recent commission report, is that many of the issues board members have to deal with are very technical, and a number of board members are, basically, volunteers and do not have such formal technical experience.

5. *What is your view of the relationship between the state board and your regional board? What type of guidance do you receive from the state board?*

- Since I joined the Board, I have attended three joint meetings with the State Board and regional boards in San Diego, Sacramento, and Chino, where we discussed and attempted to develop good working relationships and partnership in achieving clean water goals.
- A State Board member is assigned to our Water Board and regularly attends and comments at our monthly meetings.

- State Board staff has attended our meetings and provided our Board staff direct assistance in media relations, outreach, and assistance in responding to public inquiries.
- Our Board staff is working directly with State Board staff on development of stream and wetlands policies, water reuse policies, and addressing the impacts of climate change.
- The new State Board Chair is emphasizing working with all Regional Water Boards to develop and implement policies consistently.
- Our Board and the State Board have an open line of communication whenever any question arises.

6. *What is the best use of the board's time? Should the board focus on the permitting process or focus on broad policy issues, such as updating basin plans and setting regional priorities? Or can the board reasonably be expected to accomplish both?*

- *The best use of the Board time, in my opinion, is listening to the stakeholders, environmental and interested groups, and public and public officials. These opinions, staff's findings, clean water act and our knowledge of the issues guide us in making a balanced decision.*
- *The Board's most significant actions are the adoption of basin plan amendments, refinements of TMDLs and permitting requirements within the set policy guidelines. These decisions are made in public where extensive testimony is received. Some of these actions take more than one Board meetings.*
- *The Board meets privately to consider only personnel and legal issues. The Board also reviewed the performance of the executive officer and provided the direction for improvements, where necessary.*
- *Permitting process, development of basin plans, making decisions on broad policy issues, etc are all important. These issues are taken up by the Board as the need arises. The Board is forced to take time to take decisions on all these matters. The limitations are placed on the Board due to cut back in staff time due to the State budget crisis.*
- *Our Board is full of competent people, and there is no shortage of skill and expertise. The time, budget, and staff availability to investigate the cases are limiting factors. I feel one Board meeting per month is not adequate.*

7. *Has your board developed or discussed creating a mechanism that would let the public know if the waters in your region are becoming cleaner and by how much?*

*The Board has established the Regional Monitoring Program for Water Quality in the San Francisco Bay Estuary (RMP), which provides the public with extensive information on water quality in our region, with a focus on the Bay. The RMP's annual Pulse of the Estuary publication is available both in hard copy and online, for which the information is generated through the Surface Water Ambient Monitoring Program. We also provide monitoring information to many groups for their review. Based on data provided by us, the San Francisco Estuary Project and the Bay Institute issue report cards regularly. Lately, the Board has emphasized the role of media and public outreach. Just last Saturday, Chanel 9 aired an eleven minutes presentation on sewage spills in their program, Quest.*

8. *Do the state board and your regional board staff assist you to better understand some of the complex issues before you if you request help? If not, where do you*



*seek help when you need it? Do you have any suggestions on how the state water board's staff might better assist you?*

Certainly, Board staff at State and regional levels is always ready to assist the Board members to clarify and answer questions on complex issues. Our staff prepares status reports on significant issues for both public and Board members. Our staff has been working hard, but they can't work two Fridays each month and the vacant positions can't be filled at this time due to the budget crisis. The Board members spend a huge amount of time in going over the details of every issue which comes before it. Of course, the Board members use their expertise, materials presented to them, and public comments in making their decisions. The only solution to get more efficient help from the staff is to provide more staff and resources, which is not possible at the present time.

## **Enforcement**

In 2005 the Office of the Secretary of Cal/EPA reported to the Legislature on environmental enforcement and suggested that the state and regional water boards were among the worst agencies in enforcing the law. In 2008 the state board, in its *Strategic Plan 2008–2012*, said it would adopt an updated water quality enforcement policy by December 2008. That enforcement policy will now not be adopted until mid to late 2009. On January 1, 2009, the state board published its 2008 enforcement report. Among other things, it showed the number of violations that were imposed by regional boards compared to completed enforcement actions. For the four-year period from 2005 through 2008, the San Francisco regional water board scored a low of 20 percent in 2008 and a high of 63 percent in 2005 in wastewater violations compared to completed enforcement actions. This is below the average of the nine regional boards. For stormwater violations compared to completed enforcement actions, the board scored a low of 50 percent in 2005 and a high of 98 percent in 2007. This is below the average of the nine regional boards.

9. *What is your view on how your board should enforce water quality laws? When are fines and penalties appropriate and when are more informal actions necessary?*

*Since I joined the Board, we have taken many enforcement actions. We implement TMDLs through permits or other regulatory mechanisms. Our Board has adopted regionwide permits, such as the regionwide mercury discharge permit for wastewater dischargers with required level of implementation and monitoring.*

*Our enforcement staff directly monitor for compliance of permits and recommend enforcement actions if needed. We have required an adaptive management strategy that phases implementation based on monitoring and the collection of new information about the constituent or its control. Every time a permit comes up for renewal, we tighten up the requirements based upon the technological progress. Our approach to imposition of penalties may be summarized as follows:*

- *There is no one most effective option to enforce violations of board orders and water quality laws. Since the circumstances of each violation differ, the most effective enforcement option may differ from violation to violation. Fines and penalties play a significant role in publicizing the need to*



comply with the Porter-Cologne Act, penalizing those who violate the Act, and deterring the party in violation and other parties from future violations of the Act.

- It may not be appropriate to fine small businesses or individuals that may be forced to go out of business. It is frequently better to use other enforcement options available under Porter-Cologne Act to ensure that such parties cleanup the impacts of their violations.
- When agencies such as wastewater dischargers infrequently violate their permits, enforcement through imposition of mandatory minimum penalties is an effective means of ensuring that the decision-makers of these dischargers are fully aware and take responsibility for their violations.
- When agencies or other parties have frequent or repeated violations or are clearly negligent in allowing a violation to occur, the Board has directed staff to impose large administrative civil liabilities that not only penalize parties for their violations, but effectively deter that party from having similar violations in the future.

Please note that:

- This Water Board has significantly increased its imposition of fines since 2005 to repeated and negligent violators, especially to those with sanitary sewer overflows and wastewater spills.
- Contrary to the tables included in the State Board's 2008 enforcement report, the level of enforcement in this Water Board's wastewater and stormwater programs has significantly increased in recent years, not declined as suggested by the enforcement report. This is because that report does not track this Water Board's increased enforcement of sewage spills, continues to include low priority general permit violations from 2005 not subject to mandatory minimum penalties, and does not reflect the enforcement of wastewater violations via the State and Regional Water Board's expedited mandatory minimum penalty program initiated in 2008 as that enforcement is not yet considered "resolved". Sewage spills and their associated enforcement are not currently reported in the enforcement report.

*The main problem with the accidental overflow of sewage is aging infrastructure and distribution system, which will require huge investment to upgrade them. Currently, the cities and public agencies are running deficits due to the bad economic time and public seem to be in no mood to pass new bond measures. That's why we are emphasizing the media publicity and outreach programs to educate public.*

10. *Without a current formal state board policy on enforcement how does your board determine if it is consistent in its enforcement practices with other regional boards?*

- Our Water Board continues to rely on the existing State Board enforcement policy that remains valid until revised.
- Our Water Board's staff participates with the State Board's Office of Enforcement and other regions in enforcement roundtables to review enforcement actions from around the state and to ensure consistency.
- Our Water Board is represented by the attorneys from the State Board's Office of Enforcement in many of its enforcement actions, and those attorneys provide a statewide perspective.

## Trash Pollution

In May 2007 the board released a report on trash pollution in the San Francisco Bay region which found that all 14 watersheds in the region had high levels of trash. The greatest concentrations were near the San Francisco Bay. In addition, the board's 2007 draft Municipal Regional Stormwater Permit identified trash as a pollutant of concern.

On February 11, 2009, the board released its tentative order on the San Francisco Bay Region Municipal Regional Stormwater NPDES Permit, which includes a provision for trash control, including the installation of full trash capture devices. The board is scheduled to hear the tentative order in May.

On February 11, 2009, the board voted to designate the edges of the central bay and the south bay, along with 24 rivers and creeks, as impaired by trash under the federal Clean Water Act. If approved by the state board and the federal EPA, the federal EPA would require the region to start regulating trash as an urban pollutant or face heavy fines.

*11. How might the Municipal Regional Stormwater Permit affect the deposition of trash in the region? Should other improvements be expected?*

- As noted, the February 2009 draft of the Municipal Regional Stormwater Permit includes significant requirements for trash controls by all municipalities it covers. This Permit covers 77 local agencies, and it will be the first significant regulatory vehicle requiring trash control in this region.
- Based on comments and testimony received in May on the February 2009 draft, the Water Board has directed its staff to ensure that the Permit focuses controls on those areas listed as impaired, requires implementation of trash control measures over this 5-year permit cycle within the financial abilities of the municipalities, and implements cost-effective measures for assessing both the reduction in trash and the extent of impairment of water bodies in the region.
- The Water Board expects to use the Stormwater Permit as its primary vehicle to regulate trash pollution. However, over the next few years, those local agencies not covered by this Stormwater Permit will also be required to implement similar trash control methods.

*12. How do you see the designation of part of the bay as impaired by trash? How will you use the designation if adopted by the federal EPA?*

- Based on the trash assessments analyzed by staff as part of the 2008 impaired water body listing process, it is quite likely more water bodies will be listed as impaired by trash in future listing processes. The 2008 listing process established the assessment methods that will be utilized to analyze other water bodies in the future.
- The listing of 26 water bodies as impaired by trash has already raised the profile of trash pollution and its impacts. While stating that they have financial limitations in how to control trash, most commentators on the Municipal Regional Stormwater Permit agreed that more effort was needed to control trash pollution in the Bay and its watersheds.
- By including requirements to control trash in the Stormwater Permit, it may not be necessary to implement TMDLs if the federal EPA adopts the 26 trash listings. However, such an impairment designation would clearly indicate to both the regulated community and the public that the control of trash pollution to the Bay is a high priority for the Water Board.

One of the generators of the Potrero Power Plant owned by Mirant Corporation, located just south of Mission Bay, draws millions of gallons of water per day from the bay for cooling. After being run through the plant, the heated water is discharged back into the bay, where studies have shown it stirs up harmful substances such as copper, dioxin, mercury, and PCBs. In 2006 the board said it would bar the company from using the cooling system after 2008 unless the firm could show its cooling system had no significant adverse environmental effects on the bay. Board staff have since said that the rules were suspended pending the resolution of a Supreme Court case challenging federal water laws. That case was decided April 1, 2009, and new federal regulations may be developed by the new federal administration.

13. *Now that the Supreme Court case has been decided, how will the board proceed in addressing the issues of once-through cooling and environmental effects of the Potrero Power Plant?*

The Board assigns a great importance to the impacts of once-through-cooling water system at the Potrero Power Plant and other power plants in the region. The State Board has indicated that it's going to circulate a draft statewide policy for once-through-cooling water systems, consistent with the Supreme Court's decision. Once that policy is adopted by the State Board, we will be reissuing the permits to power plants in our region consistent with the statewide policy.

*Thank you.*

Sincerely,

Rameshwar Singh



## Answers to Questions from Senate Rules Committee June 9, 2009 Request

Richard Freschi  
Responses**STATEMENT OF GOALS**

- 1. What do you hope to accomplish during your tenure as a member of the board? What goals do you have for the board, and how will you accomplish them? How will you measure your success?**

During my tenure as a Board Member of Region 8 California Water Quality Control Board, I hope to assist in the continuation of the positive reputation of this Board as being reasonable, fair, and just in the discharge of its duties as enumerated in the Porter-Cologne Water Quality Control Act.

There are several major issues currently facing the Board that I hope to assist in implementing, among some of the most challenging of them: Reissuance of Stormwater permits for San Bernardino, Riverside and Orange Counties. TMDL adoption for selenium in the Newport Bay Watershed. Reissuance of the ocean discharge permit for Orange County Sanitation District.

- 2. What do you believe are the most serious issues facing your board?**

1. Funding. The responsibilities we face with less than one-half of the funding needed to accomplish the task cause us significant challenges. This is an estimate by the LAO.

2. The most important water quality issue is the increasing salt levels in surface and ground waters in our Region. This adverse salt balance in surface and ground waters has harsh supply and beneficial use considerations, as well as serious economic considerations.

3. In the Rialto area, there is Perchlorate contamination in the groundwater which is a significant water quality dilemma. There is litigation on this issue.

- 3. How does your board help the public understand the state of water quality in your region? Where should the public go for information on water quality issues, such as beach closures, sewage spills, or the overall quality of water quality in rivers and streams in your region?**

Our Regional Board has an absolutely fabulous web site ([www.swrcb.ca.gov/rwqcb8/](http://www.swrcb.ca.gov/rwqcb8/)). It has a listing of resources, Email subscriptions requests, data & databases in the California Integrated Water Quality System and Geotracker databases, a public records center, sources for grants and loans, fees, how to file an environmental complaint and useful links to spills; almost anything one could need. By the way, our region is the only one to do region-wide recalculations of ambient water quality on a triennial basis. All this information is available in an easy to download format.

## STATE AND REGIONAL BOARD ROLES

**4. Who is available to assist you at the state board and your regional board to better understand some of the complex issues before you? Do you have any suggestions on how the state water board staff might better assist you?**

I believe the state board does a good job in supporting our legal counsel and keeping him informed on any issues where he needs assistance. Our state Chair, Tam Doduc, attends most of our meetings and is available to our Regional Chair. Our Regional Chair, Carole Beswick, participates in a monthly teleconference with the chair of the other regions and the State Chair.

Our Executive Director and our Region Chair are always available and welcome questions that are promptly and clearly answered. Frequent E-mails and phone contact are routine. The meeting agendas are provided to us in a timely manner so I have sufficient time to review and ask questions of the Director or any of the several competent staff members in our Region. Our Regional Counsel is always available to guide me in understanding the situations and rules of ex-parte communications. I have all the resources at my disposal to provide the solution to any questions or issues I have in the course of our business.

**5. What training have you received to help you better understand when you might have a conflict of interest regarding an issue on your board's agenda? How do you know when to withdraw yourself from voting on an issue? Have you ever done so since being appointed to this board?**

Briefings by Philip Wyels, the Deputy Chief Counsel of the State Board, conflict of interest training on the web site of the Fair Political Practices Commission, briefings at the Water Education Workshop.

I well understand conflict of interest issues. During my 12 years on the City council of Villa Park, my tenure as a Director of the Orange county Sanitation District, as well as tenure on the Orange County Vector Control required me to attend a class on ethics and conflict of interest. Moreover, the Regional Counsel, the Executive Director and the

Regional Chair realize the need to be vigilant regarding conflict of interest issues. I have withdrawn myself once while on this board.

**6. What is your view of the relationship between the state board and your regional board? Could coordination and accountability be improved? If so, how?**

The relationship between the state board and the regional board is considered by many to be generally established by the Porter-Cologne Water Quality Control Act. The Regional board sets the water quality standards through the basin plan and develops the Total Maximum Daily Loads of each item. The region also enforces the permit and discharge requirements in addition to state and federal water quality laws. Our region frequently invites State Board staff to participate in our task force presentations

My view of the relationship with the state board is that it is smooth and well running. Each entity has its duties and coordinates with the other. The state chair, Tam Doduc, has attended each meeting, except perhaps one, since I have been on the board. As earlier indicated, our regional chair, Carole Beswick, participates in a monthly teleconference with each of the board chairs and the state board. During February there was a three day workshop for board members. Several state board members were participants and presenters. My perception and understanding is that the Santa Region is on the best of terms with the state board. This has been articulated by several of the presenters at the workshop for board members. From what I've heard from board members of other regions and some stakeholders who deal with other regions, our Santa Ana Board is truly unique in its method of operation. Our staff engages stakeholder participation in basin planning, development of TMDLs, and emerging contaminants. Several meetings are arranged where staff listens and resolves most of the contentious issues so they are resolved prior to being brought to the board.

**7. How is your board able to address, within its current funding levels, the state and federal laws you are charged with enforcing? Are there issues you believe get less attention than they need, due to current funding levels and constraints on resources?**

According to the Office of the Legislative Analyst, the regional boards receive approximately 50% of the required funding necessary to fully accomplish their responsibilities. As a result of this inadequate funding, basin planning work, development of TMDLs, reissuance of waste discharge requirements, inspections of various facilities, and several other issues are not fully completed as the region would like them to be.

## **DAIRY POLLUTION**



**8. How does your board evaluate the effectiveness of the region's efforts to address the water and groundwater impacts from dairies in the Chino Basin? Are you satisfied with the results thus far?**

The Maximum Benefit water quality objectives for the Chino Basin that were recently adopted allow the Chino Basin Watermaster and the Inland Empire Utilities Agency to implement an integrated water supply and groundwater plan that fully address the dairies groundwater impact in a unique manner. The Maximum Benefit program allows for an integrated program that includes an extensive series of extraction wells and desalting facilities for addressing the ground water impacts from the Chino Basin Dairies. The program reverses the gradient of the groundwater in the Chino Basin, such that the groundwater underlying the dairies is drawn back from the Santa Ana River, protecting surface water quality from the dairy impacts. The groundwater is extracted, treated by the desalting facilities and the water is then used to supplement the local water supply. The brines from the desalting are sent to the Orange County Sanitation District for treatment.

**9. How will the Engineered Waste Management Plans and Nutrient Management Plans improve water quality in the region? How is the board using the plans?**

The Santa Ana Region adopted the waste discharge requirements for all dairies in the region during the 1970's. The dairies are required to prepare and implement engineered waste management plans to contain all runoff, including storm water. Basin Plan requirements mandate that dairies must also dispose all waste products produced. The board also requires all dairies to have retention and disposal facilities that provide significant benefits for downstream water quality. All dairies must have facilities designed by registered professional engineers and they must certify the facilities have been constructed according to the approved plans.

**10. What are the challenges facing the board for monitoring, compliance and enforcement?**

One of the major issues facing our region's regulatory program is inadequate resources. More than 300 dairies are expected to be dealt with by only two staff members. The region is fortunate that outside assistance is provided by the U.S. EPA to help with inspection and enforcement. The NRDC has provided additional funding through litigations settlements to fund inspections by the engineering contractor for the U.S. EPA.

## **PERCHLORATE GROUNDWATER CONTAMINATION**

**11. What is the status of the contaminated groundwater in and around Rialto, Colton and Norco?**

Perchlorate in groundwater in these areas comes from two sources. Historically, Chilean Nitrate fertilizer containing significant concentrations of perchlorate was imported and used on citrus crops in the area from the 1800's through World War II. This accounts for the widespread occurrence of perchlorate in citrus areas within the region. Additionally, industrial discharges of perchlorate are responsible for higher levels of perchlorate in the Rialto/Colton areas. These sources have been addressed through the use of wellhead treatment facilities, wherever concentrations in public water supplies exceed standards set by the California Public Health Department. No public water supplies in the region exceed these standards.

## **CLEANING UP POLLUTED WATERS**

**12. In your view, what is the role of regional water boards regarding required testing and standard limits for pharmaceutical and over-the-counter drugs in drinking water? Should the state water board, through regional boards, be working with the California Department of Public Health to require testing and set safety limits for pharmaceuticals in drinking water?**

The role of regional boards is to require that dischargers and groundwater recharge agencies perform adequate monitoring to provide information of the levels of these constituents in what is discharged or imported into the groundwater basin. Regional boards should ensure compliance with whatever standards are established by the California Department of Public Health, in collaboration with the Office of Environmental Health Hazard Assessment. Regarding the "safety" aspects in drinking water, it is the responsibility of the California Department of Public Health to set safe levels for any constituents in the water and the regional boards may be able to assist by providing additional data for consideration.

**13. What will be the role of your board's emerging contaminate task force? Under what timeline will they operate?**

This group is a creation by the stakeholders that discharge permitted wastewater or that recharge imported water into the groundwater. The group, including the regional board Executive Officer, has already received extensive scientific testimony from outside experts concerning the chemicals that make up the so called "emerging contaminants", the difficulties with sampling and analyzing these constituents, and how these chemicals survive the various treatment barriers during wastewater treatment and water supply treatment processes. It is expected that before the end of this year, the work group will propose two different monitoring plans for consideration by the regional board; one for wastewater discharges and another for imported water used for groundwater recharge.

The first part of the report discusses the current state of the world economy and the impact of the global financial crisis. It highlights the challenges faced by developing countries and the need for international cooperation to address these issues. The report also examines the role of the World Bank in providing financial assistance and technical support to member countries.

The second part of the report focuses on the environment and the impact of climate change. It discusses the scientific evidence for global warming and the potential consequences for the world's ecosystems and human societies. The report also outlines the World Bank's efforts to promote sustainable development and to help countries adapt to the effects of climate change.

The third part of the report deals with the social and human development aspects of the global economy. It examines the impact of economic globalization on the world's population, particularly on the poor and vulnerable groups. The report also discusses the World Bank's commitment to promoting social development and to improving the living standards of its member countries.

The fourth part of the report provides a summary of the findings and conclusions of the study. It emphasizes the need for a comprehensive and coordinated approach to address the global challenges of the 1990s. The report also offers recommendations for the World Bank and its member countries to implement effective policies and programs to promote economic growth, social development, and environmental sustainability.

The fifth part of the report contains a list of references and a list of figures and tables. The references include a wide range of academic and policy-oriented sources, while the figures and tables provide visual representations of the data and findings discussed in the report.



B.H. Olson, PhD.

Goals

B.H. Olson, PhD, Goal Statement for Western States Water Council  
California Senate Rules Committee

### Status of California and Water

As a water scientist and a publicly elected Water Board Director, I have come to understand

- the great accomplishments of California in providing good quality and plentiful water supplies for its citizens and for economic development, and
- the disparities that can arise between protection of the environment and the economic growth of California.

In order for California to thread its way to a balance of all the needs in the state,

- bold and thoughtful plans must be undertaken, and
- conservation must play a significant role but cannot alone meet the needs increased population growth has generated over the last three decades.

Perhaps more importantly, unforeseen consequences of water policy decisions must be anticipated.

- Conservation in certain geographical regions will lead to decreased quality of recycled water both in terms of increased total dissolved solids and higher concentration of pharmaceuticals and personal care products.
- Water projects undertaken by the state must be scientifically and technologically smart to enhance the future of the state and protect its water resources.

### Qualifications

I believe I am uniquely qualified to assist the state of California in achieving its goals in water quantity and quality with insights that will lend themselves to promote and pursue pioneering water solutions. My background provides me with an excellent understanding of water supply quantity, reliability and quality based on my

- educational background in public health, toxicology and water quality and treatment from my doctoral training at the University of California, Berkeley;
- progression through the professorial ranks at the University of California, Irvine, now as a professor in Civil and Environmental Engineering;
- participation in national water issues through my involvement on National Research Council Committees and as a member of NAS Water Science and Technology Board;

Senate Rules Committee

JUN 15 2009

Appointments

- increased breadth of knowledge of chemical and biological hazards from my participation in the USEPA Science Advisory Board's Drinking Water Committee;
- service as an elected Director on the Irvine Ranch Water District (1982-1989) and the Santa Margarita Water District (1994-present);
- experience with multi-million dollar budgets and water and wastewater infrastructure projects.

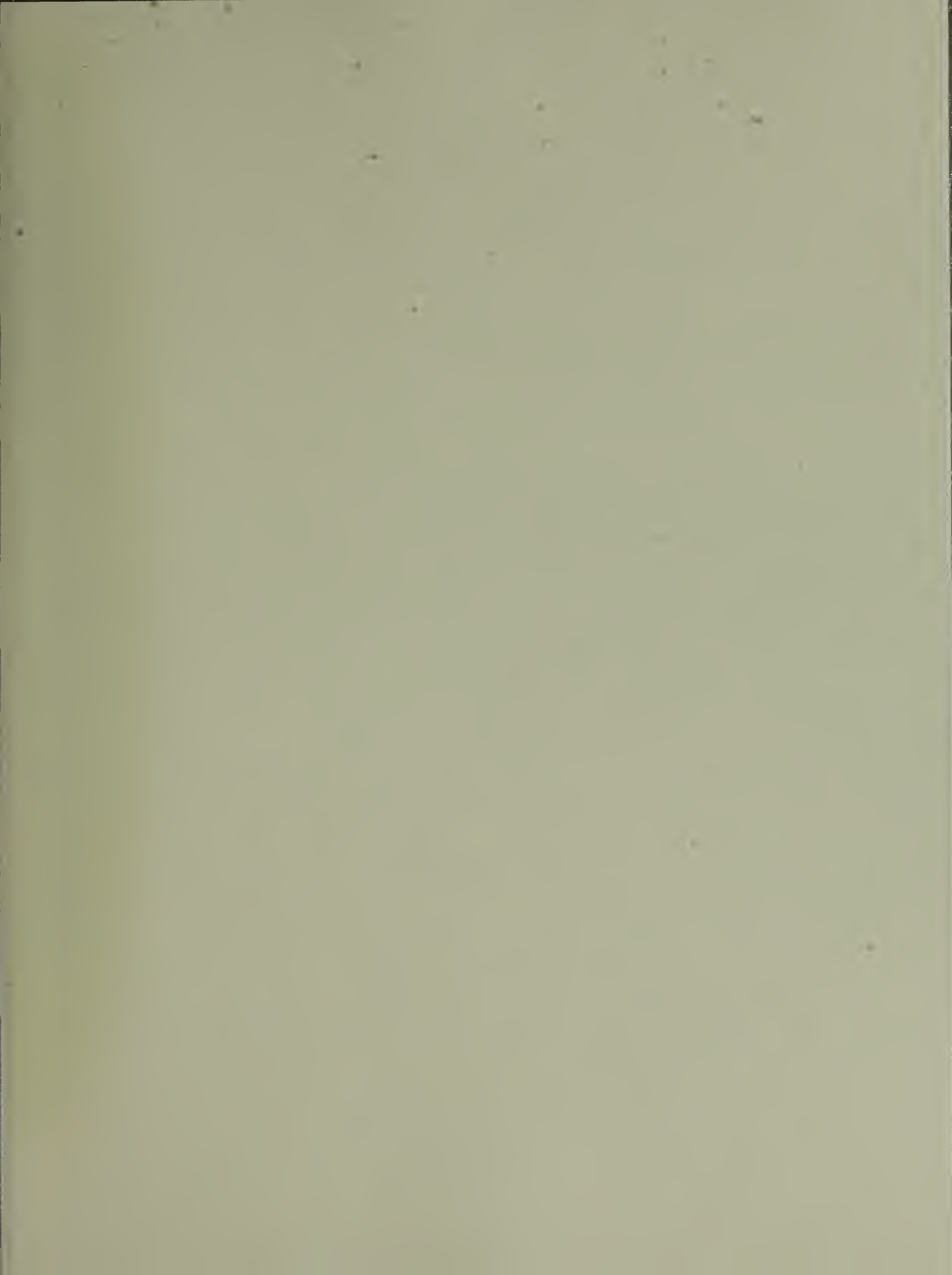
#### **Goals as a member of the Western States Water Council**

The Western States Water Council provides an opportunity to look for a commonality among water issues and build coalitions to achieve outcomes beneficial for the western states, especially related to adaptation to climate change. I wish to

- provide the Council a public perspective from the consumer's view;
- interact with the Governor's Director of Water Resources and Secretary of Natural Resources to promote the administration's identified solutions to water issues;
- meet with local and state legislators to understand their views of key water problems in the state;
- alert appropriate government officials of innovative approaches to local and regional water quantity and quality concerns provided to me through my educational experiences;

With the help of the Department of Water Resources, we have identified an initial focus on determining the risk of emerging chemical hazards from pharmaceuticals and personal care products in groundwater from recharge with recycled water.

I believe that California's continued success is embedded in resolving our water shortages and I have the commitment and knowledge to work with the Governor's administration, legislators and the Council to find solutions to our water needs in order to maintain quality and sufficient quantity for California's economic growth.





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